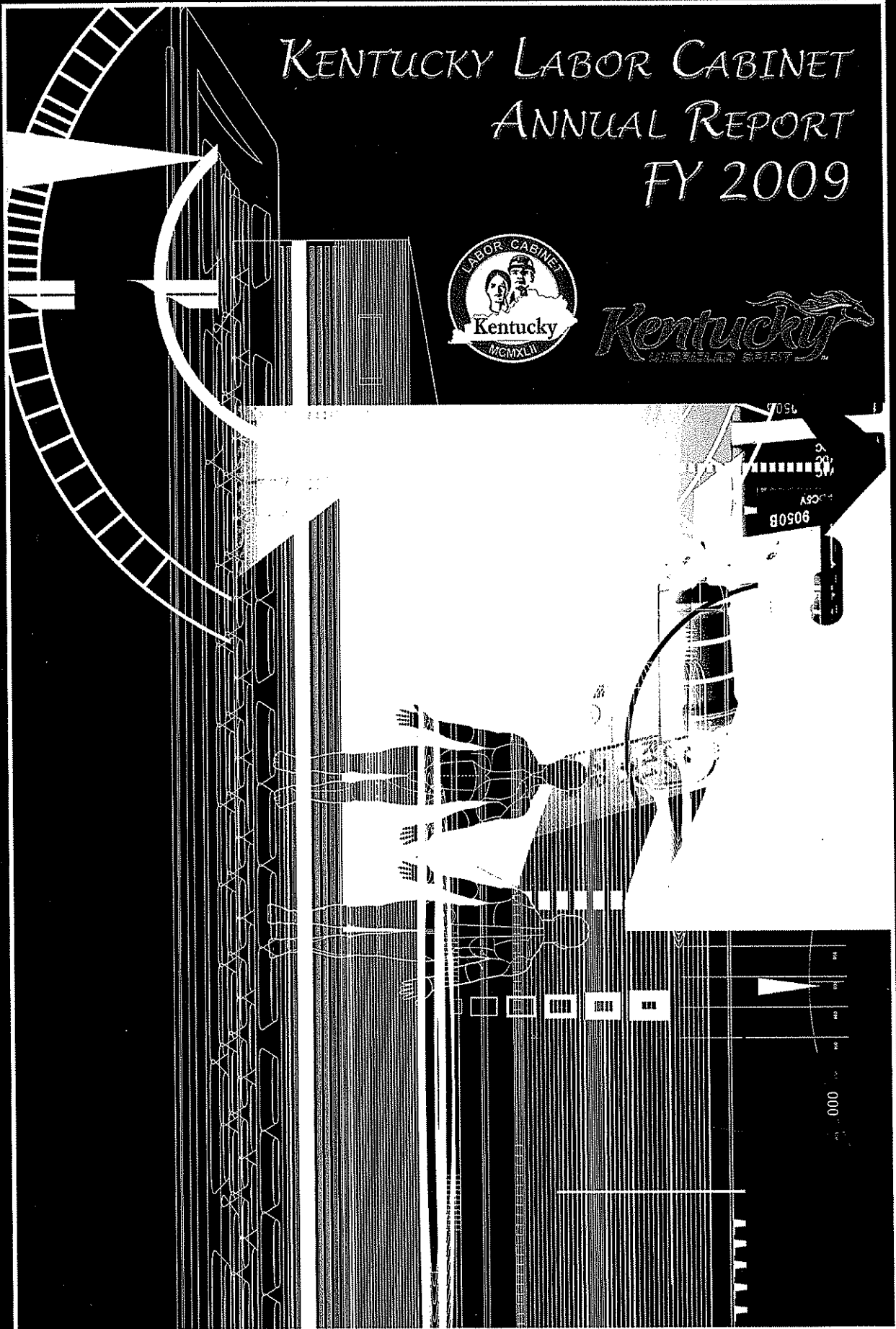


KENTUCKY LABOR CABINET ANNUAL REPORT FY 2009





KENTUCKY LABOR CABINET

Steven L. Beshear
Governor

Suite 4, 1047 U.S. Highway 127 South
Frankfort KY 40601
Telephone: 502.564.3070
www.labor.ky.gov

J. R. Gray
Secretary

Daniel Mongiardo
Lieutenant Governor

Mark S. Brown
Deputy Secretary

December 1, 2009

The Honorable Steven L. Beshear
Governor of the Commonwealth of Kentucky
The State Capitol Building
Frankfort, Kentucky 40601

Dear Governor Beshear:

Please find attached hereto the *Annual Report of the Kentucky Labor Cabinet* for Fiscal Years 2008-2009. Pursuant to KRS 12.110, this report contains information relative to the activities, accomplishments, areas of concern and business modifications of the Cabinet. The Commissioner of the Kentucky Department of Workers' Claims, under the directive of KRS 342.230(2) and KRS 342.435, will prepare and file an agency report for submission to you under separate cover. However, a brief description of the functions of the Department of Workers' Claims and the financial report of the Department are contained herein.

Although budget restrictions and reductions have had a major detrimental impact on the Cabinet in 2008-2009, particularly the Division of Employment Standards, Apprenticeship, and Mediation, the only unit of the Cabinet receiving General Fund appropriations, there have been numerous accomplishments. Specifically, a complete reorganization has been done to restore the Agency to Cabinet status; the Cabinet's information technology systems have been significantly upgraded; the Cabinet is finalizing a new *Cabinet Strategic Plan* post reorganization; the Cabinet successfully defended the constitutionality of KRS 337.505 (prevailing wage law); the Cabinet restored \$3,428,829 in back wages to Kentucky employees who fell victim to unfair labor practices and collected \$353,000 in delinquent fines and penalties, plus \$233,875 in routine fines and penalties. In addition, the Cabinet instituted a new Hispanic outreach program to assist Hispanic laborers with workplace violation issues and the Cabinet continues to work with 722 registered apprentices. During 2008-2009, the Labor Cabinet was successful in partnering with several state agencies and others in information sharing agreements that exchange critically needed data beneficial to the enforcement of Kentucky labor laws. The Cabinet is pleased to announce the establishment of 12 new Voluntary Partnerships (VPPs), 12 new Safety and Health Achievement Recognition Programs (SHARP) and eight (8) new Construction Partnership Programs (CPPs) in 2008-2009. The Division of Occupational Safety and Health Compliance conducted 1527 safety inspections covering over 70,000 Kentucky employees. Compliance investigators issued citations carrying \$2,279,765 in penalties and the Division claimed \$1,441,389 in penalties that were deposited into the General Fund. The Division of Workers' Compensation Funds paid \$68,200,000 in benefits from the special fund and coal workers' pneumoconiosis fund to over 6,600 injured workers. These are dollars that will find their way back into Kentucky's economy. The Labor Cabinet is enjoying improved relationships with labor and management statewide and the lines of communication remain open and productive.

I hope you find this report beneficial. The Labor Cabinet remains dedicated to its mission to administer Kentucky's workplace standards and workers' compensation laws through education, mediation, adjudication and enforcement, in order to promote safe, healthful and quality working environments for employees and employers; while fostering cooperative relationships between labor and management and promoting fair compensation.

Sincerely,

J. R. Gray, Secretary
Kentucky Labor Cabinet



An Equal Opportunity Employer M/F/D

KENTUCKY LABOR CABINET

PROGRAM INFORMATION AND ANNUAL REPORT

Fiscal Year 2008-2009



**KENTUCKY LABOR CABINET
PROGRAM INFORMATION AND ANNUAL REPORT
Fiscal Year 2008-2009**

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*** Kentucky Occupational Safety and Health Review Commission is affixed to the Labor Cabinet for administrative/budget purposes only.**

**KENTUCKY LABOR CABINET
CONTACT US**



**KENTUCKY LABOR CABINET
1047 U.S. HWY 127 SOUTH
FRANKFORT, KENTUCKY 40601
502-564-3070
www.labor.ky.gov**

**KENTUCKY LABOR CABINET
DEPARTMENT OF WORKERS' CLAIMS
657 CHAMBERLIN LANE
FRANKFORT, KENTUCKY 40601
502-564-5550
www.labor.ky.gov/workersclaims/**

**GENERAL ADMINISTRATION AND PROGRAM SUPPORT SERVICES
(GAPS)
CAPITAL PLAZA TOWER
MERO STREET
FRANKFORT, KENTUCKY 40601
502-564-5525**

**KENTUCKY LABOR CABINET
PUBLICATIONS**

OFFICE OF THE SECRETARY

The Kentucky Labor Cabinet Annual Report
Cabinet Newsletter – *Labor Works*

DIVISION OF EMPLOYMENT STANDARDS, APPRENTICESHIP AND MEDIATION

Kentucky Wage and Hour Law (Poster)
Kentucky Child Labor Laws (Poster)
Kentucky Wage Discrimination Based on Sex (Poster)

OCCUPATIONAL SAFETY AND HEALTH PROGRAM (TRAINING AND COMPLIANCE)

- * Bloodborne Pathogens
 - * Electrical Safety
 - * General Industry Checklist
 - * Hazard Communication
 - Kentucky Labor Cabinet Brochure
 - Kentucky Census of Fatal Occupational Injuries
 - Kentucky Occupational Injuries and Illnesses Survey, 1994
 - * Kentucky Occupational Safety and Health Facts and Services
 - * Kentucky Occupational Safety and Health Standards for General Industry
 - * Kentucky Occupational Safety and Health Standards for Construction Industry
 - * Kentucky Supplement to Construction Standards
 - * Kentucky Supplement to General Industry Standards
 - Kentucky Survey of Occupational Injuries and Illnesses
 - * Lockout/Tagout
 - * Machine Safeguarding
 - * Mechanical Power Press Safety
 - Noise and Hearing Conservation
 - * Personal Protective Equipment for General Industry
 - * Powered Industrial Trucks
 - * Requirements for Means of Egress and Fire Protection
 - Respiratory Protection
 - Safety and Health Protection On the Job (Poster)
 - Safety Partners Program Brochure
 - Tuberculosis Guidelines
 - Voluntary Protection Partnership of Kentucky (Brochure)
 - Voluntary Protection Partnership of Kentucky (Packet)
 - * Welding, Cutting and Brazing
 - * Your Back and Your Job
- * Publications available at Labor Cabinet website

Publications may be obtained by writing the appropriate division at the following address:

Kentucky Labor Cabinet
1047 U. S. Highway 127 South, Ste. 4
Frankfort, Kentucky 40601

<http://www.labor.ky.gov>

PUBLICATIONS CONTINUED

THE DEPARTMENT OF WORKERS' CLAIMS

The Department of Workers' Claims Annual Report
The Kentucky Official Workers' Compensation Medical Fee Schedule (2008 through 2010)
Kentucky Workers' Compensation Guide Book
Kentucky's Detailed Codes and Definitions Manual
PPD Calculator
Medical Index Numbers (A thru Z)
Medical Index Numbers by Specialty
2010 Discount Rate Order
Lump Sum Settlement Discount Table
New HIPPA Regulation and Disclosure Form
U.S. Supreme Court Decision "Any Willing Provider"
Workers' Compensation Coverage for Healthcare Workers
Receiving Smallpox Vaccinations
2005 Vocational Rehabilitation Poster
2006 Treatment Guidelines Subcommittee Reports

Labor Cabinet
Department of Workers' Claims
657 Chamberlin Lane
Frankfort, Kentucky 40601

<http://www.ky.gov/workers'claims>

**LABOR CABINET ANNUAL REPORT
PRINCIPAL OFFICERS OF THE LABOR CABINET**

July 1, 2008 through June 30, 2009

Cabinet Secretary	J. R. Gray
Deputy Secretary	Mark Brown
Executive Advisor to the Secretary	Susan Long
Mike Donta	Policy Advisor
General Counsel	David Suetholz
Director, Division of Management Services	Willie Lile
Commissioner, Department of Workplace Standards	Mike Dixon
Director, Division of Occupational Safety and Health Compliance	Susan Draper
Director, Division of Occupational Safety and Health Education and Training	Kimberlee Perry
Director, Division of Workers' Compensation Funds	Robert Whittaker
Commissioner, Department of Workers' Claims	Dwight Lovan
Deputy Commissioner, Department of Workers' Claims	Wayne Logan
General Counsel, Department of Workers' Claims	Charles Lowther
Director, Division of Claims Processing, Department of Workers' Claims	Ingrid Bowling
Director, Division of Security and Compliance, Department of Workers' Claims	John Burkholder
Director, Division of Information and Research, Department of Workers' Claims	Frances Davis
Director, Division of Ombudsman and Workers' Compensation Specialist Services, Department of Workers' Claims	Lucretia Johnson
Chair, Workers' Compensation Board	Michael W. Alvey
Chief Administrative Law Judge, Department of Workers' Claims	Vacant
Chair, Occupational Safety and Health Review Commission	Faye Liebermann
Executive Director, Workers' Compensation Funding Commission	J. R. Wilhite
Executive Director, Office of General Administration Program Support	Holly McCoy-Johnson
Inspector General, Office of Inspector General	Deedra Benthall
Chair, Workers' Compensation Nominating Committee	Grover Arnett

Kentucky Labor Cabinet
1047 U.S. 127 South
Frankfort, Kentucky 40601
502-564-3070

Department of Workers' Claims
657 Chamberlin Lane
Frankfort, Kentucky 40601
502-564-5550

BOARDS AND COMMISSIONS OF THE LABOR CABINET

JULY 2009

<u>BOARD OR COMMISSION</u>	<u>MEMBER</u>	<u>LOCATION</u>
KENTUCKY STATE LABOR RELATIONS BOARD	Gary Best, Chair Mollie Bowers Barry Carter	LaGrange Walton Kevil
PREVAILING WAGE REVIEW BOARD	Thomas Gumm (Construction) Charles McCoy (Labor)	Glasgow Owenton
KENTUCKY STATE APPRENTICESHIP AND TRAINING COUNCIL	Howard L. Dawes (Employee) Kyle T. Henderson (Employee) Danny Kehl (Employee) Gary Osborne (Employee) Angie College (Employer) Kenneth Sheridan (Employer) Cynthia Yates (Employer) Michael Willand (Employer) (At Large) Cindy McCullough (Employer) (Ex Officio) Mike Dixon, Commissioner Labor Cabinet Workplace Standards (Ex Officio) Dr. Jay Box, Chancellor Community and Technical College System (Ex Officio) Vacant Workforce Development	Calvert City Paducah Louisville Owensboro Frankfort Louisville Louisville Harrodsburg Louisville Frankfort Versailles
CHILD LABOR COMMITTEE	Dinah Bevington Personnel Cabinet Howard Klein Health & Family Services Nijel Clayton Education Cynthia Fox Human Rights Commission	Frankfort Prospect Louisville Louisville

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

INDUSTRY

Alison Muth
Vaughn Plummer, PHD
Lisa Winchester

Union
Henderson
Bardstown

LABOR

John Brothers
Donna S. Haynes
Isa Shabazz

Louisville
Philpot
Louisville

SAFETY & HEALTH

David Folk
David T. Hart
Donna M. Ringo

Bowling Green
Paducah
Louisville

AGRICULTURE

Beth Tillery
S. Savannah Wade
Pamla A. Wood

McKee
Lexington
Harrodsburg

J. R. Gray, Chair
Secretary Labor Cabinet

Frankfort

**KENTUCKY OCCUPATIONAL SAFETY AND
HEALTH REVIEW COMMISSION**

Paul C. Green, II
Employers

Louisville

Michael L. Mullins
Occupational Safety and
Health Professionals

Hindman

Faye Lieberman, Chair
Labor & Employees

Lexington

WORKERS' COMPENSATION NOMINATING COMMISSION

Hon. William Grover Arnett

Salversville

William Dave Disponett

Lawrenceburg

Brockton L. Edwards

Louisville

Hon. James G. Fogle

Louisville

Mr. Charles E. McCoy

Owenton

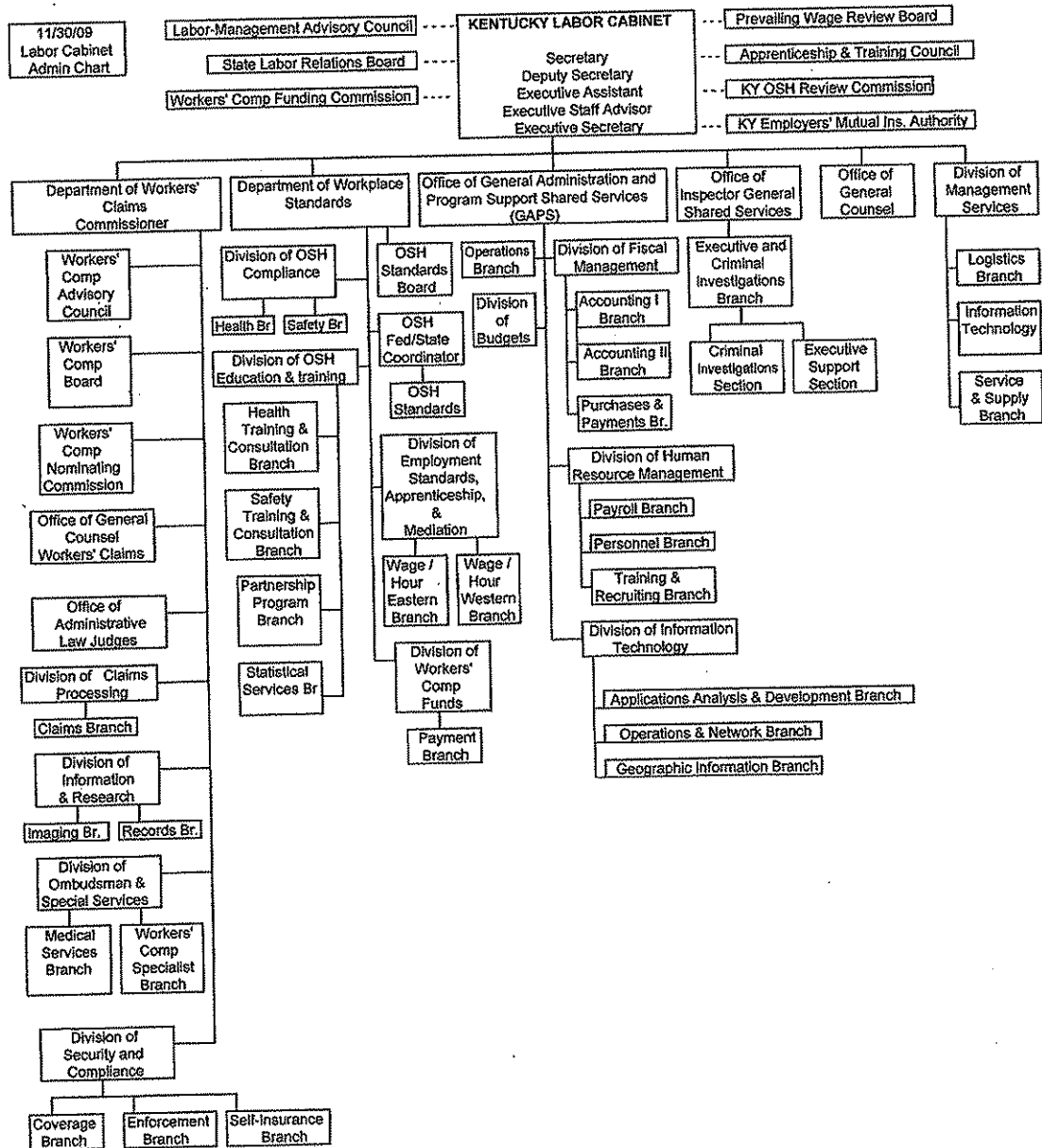
Hon. John Wathan Morgan

Lexington

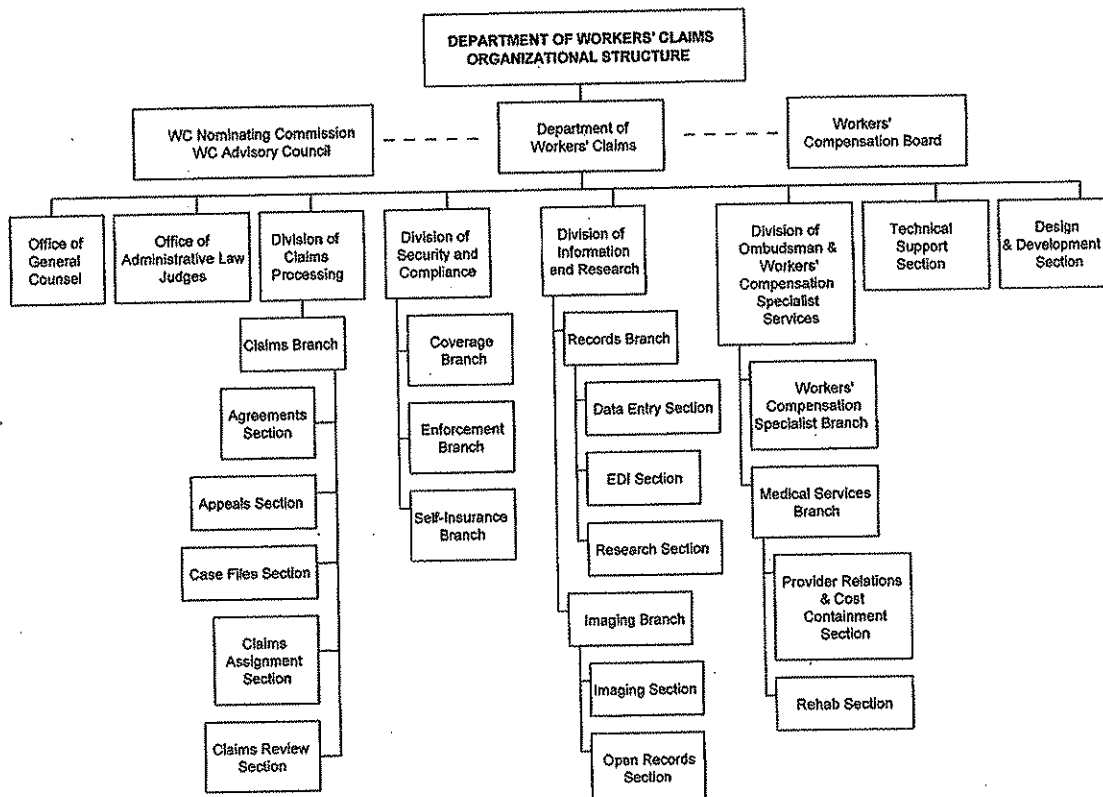
Hon. Charles Phillip Wheeler, Jr.

Pikeville

LABOR CABINET ORGANIZATIONAL STRUCTURE



DEPARTMENT OF WORKERS' CLAIMS ORGANIZATIONAL STRUCTURE



KENTUCKY LABOR CABINET

ANNUAL REPORT

2009

HISTORICAL OVERVIEW

The Kentucky Labor Cabinet was originally established by the General Assembly in 1962, via Executive Order 83-65, and operates under the authority of KRS 336.015 and KRS 342. In December 2003, Governor Ernie Fletcher combined the Labor Cabinet, the Natural Resources and Environmental Protection Cabinet, and the Public Protection Cabinet into one large cabinet called the Environmental and Public Protection Cabinet (EPPC). The Labor Cabinet was given departmental status under this reorganization. In 2009, by Executive Order 2009-537, the Department of Labor was again reorganized to cabinet status.

The Labor Cabinet is comprised of the Office of the Secretary, the Office of General Counsel, the Department of Workers' Claims and the Department of Workplace Standards. In addition, the Labor-Management Advisory Council, the State Labor Relations Board, the Workers' Compensation Funding Commission, the Prevailing Wage Review Board, the Apprenticeship and Training Council, the Kentucky Occupational Safety and Health Review Commission and the Kentucky Employers' Mutual Insurance Authority are affixed to the Cabinet for administrative purposes only. The Office of Inspector General (OIG) and the Office of General Administration and Program Support (GAPS) are also affixed to the Cabinet for administrative purposes and as a support arm for the Labor Cabinet, the Environmental Protection Cabinet and the Public Protection Cabinet. The Secretary of the Labor Cabinet serves as the appointing authority for both the OIG and GAPS.

PROGRAM AREA: OFFICE OF THE SECRETARY

DESCRIPTION: The Secretary of the Labor Cabinet serves as the chief executive officer and the appointing authority for the Cabinet. However, the Cabinet is unique in that a separate appointing authority exists for the Department of Workers' Claims. Under the authority of KRS 342, a Commissioner is appointed to head the agency, due to specific legal requirements associated with Kentucky's Workers' Compensation Program and the Workers' Compensation Board.

The primary responsibility of the Office of the Secretary is to ensure that divisions and offices falling under the auspices of the Cabinet work within the jurisdiction of Kentucky labor law to ensure equitable and fair treatment of the Commonwealth's 2,113,000 wage earning employees. Specifically, the Cabinet, according to regulation, shall have the duties, responsibilities, power, and authority relating to labor, wage and hour issues, occupational safety and health of employees, child labor, apprenticeship, workers' compensation insurance, and all other matters under the jurisdiction of the Labor Cabinet. In addition, the Office of the Secretary serves to coordinate and promote positive and progressive working relationships between labor and industry, while simultaneously enforcing Kentucky's labor laws. The Office of the Secretary's office is staffed by seven (7) employees who carry out day-to-day administrative functions for the Office and the Cabinet-at-large.

FUNDING SOURCE: Funding for this appropriation unit is derived from assessments against workers' compensation insurance premiums (or simulated premiums for self-insurance paid by all Kentucky employers pursuant to KRS 342.122). All assessments are collected, managed, invested, and disbursed by the Kentucky Workers' Compensation Funding Commission pursuant to KRS 342.122; KRS 342.1223; and KRS 342.1242.

APPLICABLE STATUTES: KRS 336.015; KRS 342; AND EXECUTIVE ORDER 2009-537

PROGRAM STATUS: The Cabinet, having recently been returned to cabinet status, has been in the process of realignment since early 2008. In the process of restructuring and, due to the necessity of cutting costs to meet budget reductions, managers throughout the Cabinet have been looking at ways to stream-line work procedures and to work smarter, not harder. The 2011-2012 expansion budget for the Office of the Secretary includes a request to replace leased-in office space currently used for the Frankfort Central Office. Currently, the Cabinet leases a single 60,000

square foot building, at a cost of \$600,000 per year, that is neither conducive to conducting the Cabinet's business, or a healthy environment for the personnel housed in Frankfort. During 2011, the Cabinet will need to replace outdated computer wiring to meet technology specifications. It is not practical or economically feasible to replace cabling in a building with substandard electrical wiring, air conditioning, heating and cooling, ventilation and insulation. The new facility will replace the current office space located at 1047 U. S. 127 South, Frankfort. Furthermore, if suitable replacement space is found, it is believed the overall annual cost of leasing could be reduced substantially.

PROGRAM AREA: THE DIVISION OF MANAGEMENT SERVICES

DESCRIPTION: The Division of Management Services is responsible, in accordance with all applicable statutes, regulations, and policies for all fiscal functions of the Cabinet, including budgeting and accounts receivables and payables; the processing of all personnel documents and time and attendance records for payroll purposes; employee benefits; the information technology services for the Cabinet-at-large; all postal services for the Cabinet and the routine maintenance of buildings and grounds. This division serves as the liaison between the Office of General Administration and Program Support Services (GAPS) and the Cabinet. The Division of Management Services is currently staffed by 28 highly experienced full-time personnel.

FUNDING SOURCE: Funding for the Division of Management Services is derived from assessments against workers' compensation insurance premiums (or simulated premiums for self-insurance paid by all Kentucky employers pursuant to KRS 342.122). All assessments are collected, managed, invested, and disbursed by the Kentucky Workers' Compensation Funding Commission pursuant to KRS 342.122; KRS 342.1223; and KRS 342.1242.

APPLICABLE STATUTES: KRS 336.122 AND EXECUTIVE ORDER 2009-537

PROGRAM STATUS: The Division of Management Services is comprised of the Fiscal Branch, the Information Technology Services Branch, and the Service and Supply Branch. The Director's staff processes all personnel documents for the Cabinet. The Office of General Administrative Program Support (GAPS) processes payroll for the Cabinet and moves other completed documents for fiscal processing through the procurement system.

The Division has recently completed the 2011-2012 Cabinet biennial budget and continues to work to administratively serve all organizational units of the Cabinet. The Division has experienced many major accomplishments in 2008-2009 and continues to look for ways to efficiently conduct day-to-day business. The following are some of the accomplishments and successes realized over the past two years:

- The Information Technology Branch provides maintenance on 40-plus Labor Cabinet computer applications or programs daily. Personnel not only ensure the functionality of these custom applications, but produce essential reports or queries to all departments, divisions and offices of the Cabinet.
- Analysis and research is ongoing for all data systems currently in use by the Cabinet. Routine analysis ensures state-of-the-art technology and keeps the Cabinet abreast of changing industry standards for technology support.
- A personnel computer reporting application was revised (upgraded) in 2008. The upgrade provides the personnel support staff with up-to-date accurate reporting methods.
- A total re-write of the Labor Cabinet Internet/Intranet CMS system was accomplished in 2007-2008, which permits offices to maintain their respective Internet content.
- A mass mailing list generator was created to allow thousands of Labor Cabinet clients, or other interested parties, to be notified automatically of regulation changes, important announcements, and conferences.
- A new personal property inventory system was created with a bar code scanning interface. The new system provides a more accurate fixed assets management system and provides an expedient method for physical fiscal inventories.
- The computer network staff has migrated systems to a storage area network (SAN) solution. This technology allows consolidation and storage of all Labor Cabinet data in one physical location; therefore, providing savings by eliminating redundant hardware.
- All Labor Cabinet network users have been moved to active directory (AD). The AD system permits rights to be granted to several systems via one login account. This eliminated old NT technology.
- VMware, server software, has been implemented, thereby consolidating approximately 25 servers to a virtual environment. Redundant server hardware has been eliminated, resulting in substantial cost savings for technology support.
- Fiber lines have been installed within the Labor network infrastructure, resulting in improved connectivity redundancy and speed for users in remote locations.
- DSLs, fast access lines, have been added for remote users (field offices), resulting in improved communications between the Central Office and field personnel.
- A new budget reporting system for in-house use has been developed. An easy to read budget/expenditure report is now available to all executive staff.
- The Fiscal Branch prepares the federal grant applications for funding for the Occupational Safety and Health Compliance Division. In 2009, the office was recognized as having expertly prepared the grant applications and submissions.

- A one-year long intensive management training effort began the first part of 2009. This required training involved topics from routine new manager training to complex training pertaining to state and federal personnel law. The overall training plan will not be completed until spring 2010.
- The Fiscal Branch assisted with the completion of two federal audits in 2008-2009 with excellent results.
- The Fiscal Branch assisted with an annual fixed asset audit conducted by the Service and Supply Branch in concert with input from the Finance and Administration Cabinet.
- The Fiscal Branch worked with GAPS in establishing a new workflow system for the eMars accounting system.
- New policies and procedures for the Cabinet have been developed to align with the new re-organization.
- A new employee on-boarding electronic personnel presentation is in process. It is hoped the system will roll out by December 15, 2009. The on-boarding presentation will introduce new employees on the first day of work to the Cabinet by viewing a brief video presentation of each of the Cabinet's divisions. It is hoped the video presentation will help to orient the new employee to his/her relationship to the Cabinet at large while simultaneously offering an overview of the Cabinet's goals and objectives.

Two (2) additional staff positions are sought in the 2011-2012 biennial growth budget. These positions will be used for janitorial and maintenance services.

PROGRAM AREA: OFFICE OF GENERAL COUNSEL

DESCRIPTION: The Office of General Counsel provides the Secretary and other executive officers with expert legal representation and assistance for enforcement of KRS 67C, 207, 337, 338, 339, 342, 343, and 345. Pursuant to reorganization by Executive Order No. 2009-0537, as implemented by Administrative Orders 2008-01 and 2009-01, responsibility for legal representation of the special fund and the coal workers' pneumoconiosis fund, administered in the Division of Workers' Compensation Funds, was transferred to the Labor Cabinet Office of General Counsel, effective June 16, 2008. The reorganization is subject to legislative approval in the 2010 Session of the General Assembly. The Office of General Counsel is staffed by 14 personnel, eight (8) of whom are attorneys.

FUNDING SOURCE: Funding for this appropriation unit is derived from assessments against workers' compensation insurance premiums (or simulated premiums for self-insurance paid by all Kentucky employers pursuant to KRS 342.122). All assessments are collected, managed, invested, and disbursed by the Kentucky Workers' Compensation Funding Commission pursuant to KRS 342.122; KRS 342.1223; and KRS 342.1242.

APPLICABLE STATUTES: KRS 336 and Executive Order 2009-537. The mandate of the Kentucky Labor Cabinet under the Kentucky Revised Statutes (hereinafter "KRS") 336 et seq. is to protect the working women and men of Kentucky and to promote harmonious industrial relations. The Office of the General Counsel is the legal arm of the Cabinet and is responsible for enforcing KRS 207 (prohibition of discrimination based on disability or the human immunodeficiency virus); KRS 337 (wage and hour, prevailing wage and prohibition of sex discrimination), KRS 338 (occupational safety and health), KRS 339 (child labor), KRS 342 (the special fund), 343 (The Apprenticeship and Training Program), KRS 67C.400 to 418 (collective bargaining for police officers) and KRS 345 (collective bargaining for firefighters).

PROGRAM STATUS: The majority of the work performed by the Office of General Counsel is the prosecution of wage and hour, prevailing wage and occupational safety and health violations. Staff regularly field questions from Cabinet personnel and the general public. The dedicated employees of this office strive daily to promote healthy working environments in the Commonwealth and to assist Kentucky's employers in reaching that goal. Though attorneys are the prosecutors for violations of the laws cited previously, they do attempt to provide clear interpretations of Kentucky's labor laws, so that businesses of the Commonwealth can avoid infractions.

Attorneys in the Office of General Counsel represent the Division of Workers' Compensation Funds in cases involving special fund and coal fund beneficiaries. Special fund beneficiaries are employees who developed a compensable occupational disease or who had a preexisting disability, disease or condition, and received a subsequent work injury (or for disease, a last injurious exposure) prior to December 12, 1996. Beneficiaries of the coal workers' pneumoconiosis fund are Kentucky coal workers with a compensable form of coal workers' pneumoconiosis and a last exposure to occupational coal dust after December 12, 1996.

The Office of General Counsel has had several major accomplishments this past biennium including, but not limited to:

- Successfully defended the constitutionality of KRS 337.505 et seq.;
- Managed 136 cases from June 2008 through September 2009;
- Filed 165 occupational safety and health liens for delinquent penalties;
- Filed 79 wage and hour liens for delinquent penalties;
- Collected \$353,082.37 from August, 2008 to September, 2009 in delinquent occupational safety and health penalties;
- Helped collect \$3,428,829 in wages for Kentucky workers in fiscal year 2009;
- Managed 619 open records requests from July 2008 through September 2009;
- Contributed to the reorganization order recreating the Kentucky Labor Cabinet.

The Office of General Counsel will not be seeking additional funding or personnel in the 2011-2012 biennial budget.

RECEIPTS**Office of the Secretary (Department 102) Rollup**

Insurance Administration Funds	4,639,958.95
--------------------------------	--------------

Carry-Forward from FY 2008	361,934.11
Transfers From Workers' Comp Funding Commission	4,014,000.00
Prior Year Refunds	
General Sales	6,765.67
Transferred Fund by GAPS for Indirect Cost	<u>257,259.17</u>

Federal Funds	129,741.79
---------------	------------

Carry-Forward from FY 2008	25,647.52
Transfer from U.S. Department of Labor	<u>104,094.27</u>

Office of the Secretary (Department 102) Totals	4,769,700.74
--------------------------------------------------------	---------------------

Secretary's Office

Insurance Administration Funds	767,934.11
---------------------------------------	-------------------

Carry-Forward from FY 2008	361,934.11
Transfers From Workers' Comp Funding Commission	406,000.00
Prior Year Refunds	
General Sales	
Transferred Fund by GAPS for Indirect Cost	

Federal Funds

Carry-Forward from FY 2008	
Transfer from U.S. Department of Labor	

Secretary's Office Total Receipts	767,934.11
------------------------------------------	-------------------

Division of Management Services

Insurance Administration Funds	2,343,300.00
---------------------------------------	---------------------

Carry-Forward from FY 2008	
Transfers From Workers' Comp Funding Commission	2,343,300.00
Prior Year Refunds	
General Sales	
Transferred Fund by GAPS for Indirect Cost	

Federal Funds

Carry-Forward from FY 2008	
Transfer from U.S. Department of Labor	

Division of Management Services Total Receipts	2,343,300.00
-------------------------------------------------------	---------------------

Office of General Counsel

Insurance Administration Funds		1,160,024.84
Carry-Forward from FY 2008		
Transfers From Worker Comp Funding Commission	964,100.00	
Prior Year Refunds		
General Sales	6,765.67	
Transferred Fund by GAPS for Indirect Cost	<u>189,159.17</u>	
Federal Funds		129,741.79
Carry-Forward from FY 2008	25,647.52	
Transfer from U.S. Department of Labor	<u>104,094.27</u>	
Office of General Counsel Total Receipts		1,264,119.11
 Workers' Claims General Counsel*		
Insurance Administration Funds		368,700.00
Carry-Forward from FY 2008		
Transfers From Workers' Comp Funding Commission	300,600.00	
Prior Year Refunds		
General Sales		
Transferred Fund by GAPS for Indirect Cost	<u>68,100.00</u>	
Federal Funds		
Carry-Forward from FY 2008		
Transfer from U.S. Department of Labor		
Workers' Claims General Counsel Total Receipts		368,700.00

*The data used for these reports is from FY 2009. The Office of General Counsel, Department of Workers' Claims was administratively assigned to the Cabinet's Office of General Counsel under Department 102, but have since been reorganized back under Department 107, Workers' Claims

EXPENDITURES**Office of the Secretary**

Personnel	3,747,753.34
Operating Awards	592,574.80
Capital Outlay	<u>38,296.00</u>
Total Expenditures	<u>4,378,624.14</u>

Secretary's Office

Personnel	590,232.24
Operating Awards	129,484.83
Capital Outlay	<u>1,343.60</u>

Total Expenditures 721,060.67

Management Services

Personnel	1,783,480.66
Operating Awards	334,961.53
Capital Outlay	<u>17,455.66</u>

Total Expenditures 2,135,897.85

Labor General Counsel

Personnel	1,046,821.49
Operating Awards	109,067.18
Capital Outlay	<u>19,496.74</u>

Total Expenditures 1,175,385.41

Workers' Claims General Counsel

Personnel	327,218.95
Operating Awards	19,061.26
Capital Outlay	

Total Expenditures 346,280.21

PROGRAM AREA: THE DEPARTMENT OF WORKPLACE STANDARDS

DESCRIPTION: The Commissioner's Office serves as the oversight unit for all programs and functions assigned to the Department of Workplace Standards. The Department is comprised of the Divisions of Occupational Safety and Health Compliance (OSH); the Division of Employment Standards, Apprenticeship and Mediation; the Division of Occupational Safety and Health Education and Training (E&T); and the Division of Workers' Compensation Funds (WCF).

The Department of Workplace Standards has the primary responsibility of enforcing Kentucky's occupational safety and health laws, wage and hour laws, child labor laws, the administration of the Coal Workers' Compensation Funds and the Special Fund, and providing education, training, and consultation services to Kentucky's employers. In addition, this division is charged with the responsibility of providing mediation services and apprenticeship services when requested.

FUNDING SOURCE: The Department of Workplace Standards receives funding from the General Fund, federal funding received from the U.S. Department of Labor, Occupational Safety and Health Administration and restricted agency dollars garnered through the Workers' Compensation Funding Commission under the authority of KRS 342.

APPLICABLE STATUTES: KRS 67; 336; 337; 338; 339; 342; 343; 345; 388; and Executive Order 2009-537.

PROGRAM STATUS: The Department of Workplace Standards has struggled the past two (2) years due to budget cuts, a decrease in personnel cap and an increasing work-load. Budget reduction measures have been put into place in every division within the Department. The number of DSL lines have been reduced, rental space reductions have been made, the number of cell phones and Blackberries in use have been reduced and much needed replacement office equipment has been placed on hold. Travel has been reduced to the bare minimum, especially in the Division of Employment Standards, Apprenticeship and Mediation, the only division receiving General Fund dollars. The Department will be requesting additional budget dollars and additional personnel in most divisions during the 2011-2012 biennial budget. Additional personnel and funding will not be sought for the Division of Workers' Compensation Funds.

The Office of the Commissioner is seeking additional support staff in the 2011-2012 biennial growth budget. The Office has recently instituted a new Hispanic Outreach Program in an effort to resolve wage and hour disputes between Hispanic workers and some Kentucky employers. Employee complaints are registered daily and it has proven difficult to work with non-English speaking clients. Information is often withheld due to cultural mores and misunderstandings and the fear of job loss. Hispanic employees are often reluctant to provide information even when they are the victims of unfair labor practices. It is believed that a Hispanic employee, fluent in both Spanish and English, will be better able to converse with this sector of the population. It is also hoped that trust can be built between the Hispanic liaison and Hispanic workers, thereby enabling inspectors to gather more factual information. The liaison has been hired and is currently in training. It is hoped the new program will be fully operational by December 1, 2009. This position is essential if the Department is to build a rapport with Hispanic workers. This employee will not be conducting on-site inspections for wage and hour nor will he/she represent the Division of Employment Standards, Apprenticeship, and Mediation. He/she will simply serve as the interpreter and Hispanic cultural liaison for all entities and programs of the Labor Cabinet.

**PROGRAM AREA: THE DIVISION OF EMPLOYMENT STANDARDS, APPRENTICESHIP,
AND MEDIATION**

DESCRIPTION: The Division of Employment Standards, Apprenticeship and Mediation (Employment Standards) is responsible for enforcing areas of Kentucky labor laws, including minimum wage, overtime, prevailing wage, child labor, wage discrimination based on sex, apprenticeship and training and mediation.

The Apprenticeship program encourages career employers and employees to enter into voluntary agreements of apprenticeship that will equip the apprentice with valuable skills. This program closely monitors apprenticeship programs to assure they are meeting the standards of providing quality training and instruction.

In addition to conducting investigations, the Division has the responsibility of preparing unresolved cases for litigation. Issues involving minimum wage, overtime, unpaid wages, illegal deductions, and remittance of gratuities that are not resolved are subject to administrative review. Case files are prepared for administrative hearings and the investigative staff, in concert with the Office of General Counsel, issues legal documents, such as tentative findings of fact. Investigators are required to work with attorneys, accountants, consultants and other professionals in the course of conducting investigations to ensure the workers of the Commonwealth are protected as provided by regulation.

FUNDING SOURCE: The Division of Employment Standards, Apprenticeship, and Mediation is funded entirely from General Fund receipts.

APPLICABLE STATUTES: KRS 67; 336; 337; 339; 343; 345; and Executive Order 2009-537.

PROGRAM STATUS: The Division of Employment Standards, Apprenticeship and Mediation receives in excess of 2,000 complaints a year and completes approximately 650 routine inspections annually. Complaints and inspections reveal approximately 1,300 violations annually, which are, in over 95 percent of the cases, corrected by investigative personnel. Violations that are not resolved in the field are processed through an administrative procedure. Civil financial penalties are assessed, collected and forwarded to the General Fund. Back wages are collected and returned to over 4,000 employees annually.

In FY 2008-2009, Employment Standards investigated and closed 2,410 wage and hour, prevailing wage and child labor inspections. Back wages in the amount of \$3,428,829 were collected, which corrected 128 violations of Kentucky labor laws. The back wages collected represented a total of 4,490 Kentucky employees. Employment Standards assessed/collected \$233,875 in civil money penalties for wage and hour, prevailing wage and child labor violations. The total case backlog as of June 30, 2009 was 598 cases.

FY	CLOSED CASES	RESTITUTION COLLECTED	PENALTIES	NUMBER OF EMPLOYEES	VIOLATIO NS CORRECT ED	CASE BACK- LOG	BUDGET
06-30-09	2,410	* 3,428,829	233,875	4,490	128	**598	1,956,700
06-30-08	2,337	1,612,458	122,880	3,279	215	758	2,410,000
06-30-07	2,452	1,786,769	142,200	3,321	243	632	2,455,300
06-30-06	2,811	3,301,149	111,550	4,510	341	570	2,602,200
06-30-05	3,080	2,867,949	138,414	9,386	453	642	2,459,700

* Restitution collected for FY June 2008-2009 was substantially higher as a result of a recent Supreme Court ruling in regard to the calculation of overtime on state firefighter incentive pay, resulting in large amounts of back pay for firefighters across the state.

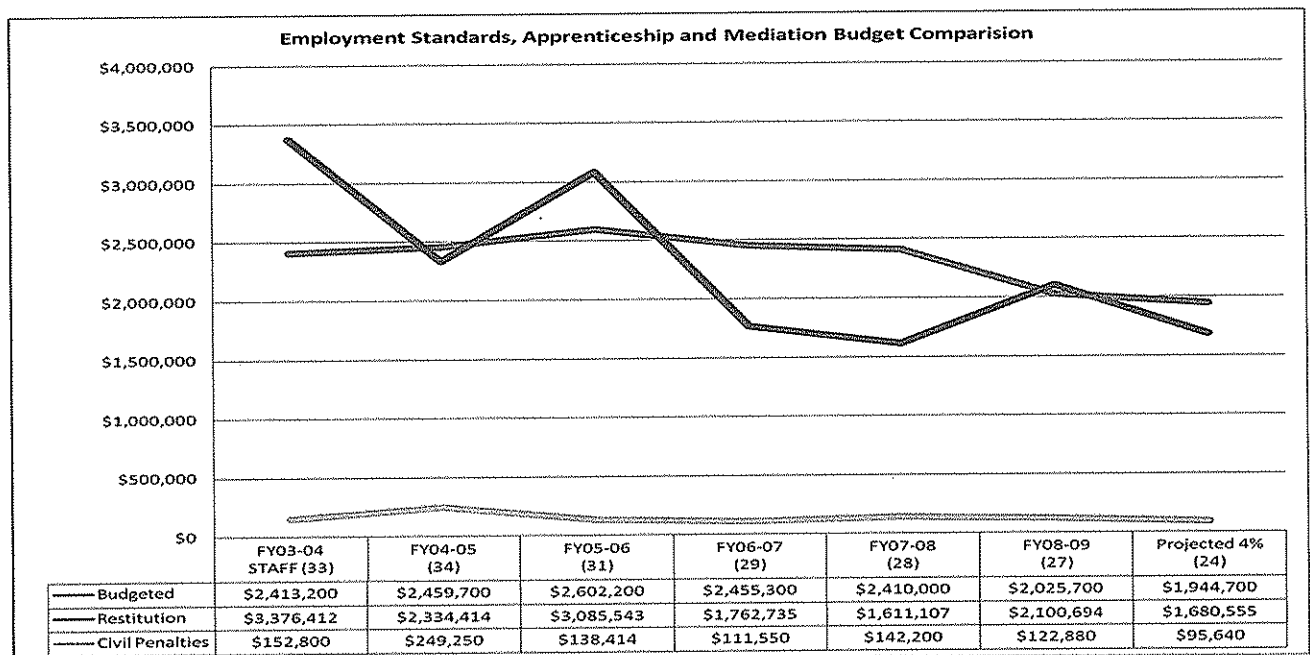
** Even though there has been a substantial decrease in staff, the Division was able to significantly decrease the case backlog because of restrictions on conducting routine prevailing wage and child labor inspections. The failure to conduct routine inspections results in a larger number of undetected violations statewide.

During the past three years, this division has sustained heavy budget cuts that have critically inhibited the mission of the program as described in regulation. Personnel positions and program funding have been reduced to the level that the Cabinet fears the dissolution of the Division completely. The personnel assigned to this division now number 28. There are only 19 wage and hour field inspectors to cover the state-at-large. Funding reductions have decreased the travel budget for field inspectors to less than \$300 per inspector per month. Critically needed office equipment, supplies, and expansion projects have been placed on indefinite hold.

The Division has sustained three (3) budget cuts over a two year period totaling \$184,600. These reductions have had a major impact on this small division with an enacted budget of only \$2,121,300.

The adjusted budget for 2010 is currently \$1,956,700. The \$184,600 reduction has:

- Prevented the retention of a division director to oversee the wage and hour program;
- Prevented the hiring of desperately needed employment standards investigators and support personnel;
- Worn out computers and other office equipment and furnishings cannot be replaced;
- The Division's travel budget has been dramatically reduced, resulting in a decrease of workplace investigations and training events;
- Office space has been reduced to the bare minimum to save space costs;
- The travel budget was reduced to offset the budget reductions. Each investigator was afforded less than \$300 in monthly travel allotments;
- Training funds were eliminated;
- Fast access data lines (DSL lines) were eliminated for some offices;
- The budget for printed materials was either eliminated or drastically reduced;
- The Cabinet has received complaints from the Kentucky Building and Trades Union and the State AFL-CIO, charging that statutory mandates are not being met. Both entities claim that employees are not being treated fairly by industry and that the Labor Cabinet is not conducting inspections as required by regulation. Charges such as these could result in future litigation;
- The number of wage and hour investigations has dropped from 3,080 annually in 2006 to only 2,337 in 2008;
- The Division averages 650 routine annual wage and hour inspections. However, budget cuts forced the Division to curtail all "routine" inspections for FY 2009.



The 2011-2012 biennial budget is requesting ten (10) positions be restored to the Division to replace those positions lost to budget reductions and to afford an adequate number of staff to handle the case backlog. The restoration of these positions will further enable the Department to meet regulatory mandates.

Past budget cuts have decimated the Apprenticeship Program in Kentucky. In 2004, the Department had 2,278 apprentices registered in 308 active apprenticeship programs and a staff of five (5) people assigned to administer the program. In 2009, there are 2,939 apprentices registered in 293 active programs and a staff of only one (1) full-time Apprenticeship Coordinator to cover the entire state of Kentucky. This one staff person is responsible for monitoring all 293 programs, plus advising and assisting new employers who are interested in registering new programs. Current staffing levels make it impossible to properly meet the statutory requirement of KRS 343. As the federal stimulus money is distributed to states for worker retraining and adult education, the Cabinet anticipates an increased interest in registered apprenticeship to meet federal mandates. Without staffing increases, the Cabinet

cannot meet the demands. The 2011-2012 budget requests a cap increase and funding to employ three (3) additional personnel to meet apprenticeship program demands.

FY	APPRENTICES REGISTERED	ACTIVE PROGRAMS	APPRENTICE COMPLETIONS	ACTIVE APPRENTICES	PROGRAMS REVISED	PROGRAMS REVIEWED
06-30-09	722	293	330	2,939	49	56
06-30-08	1,234	304	292	3,120	29	39
06-30-07	940	305	330	2,617	38	78
06-30-06	784	307	377	2,397	12	47
06-30-05	955	309	490	2,551	18	57

The Division of Employment Standards, Apprenticeship and Mediation is responsible for promoting and improving relationships between labor and management throughout the Commonwealth. Mediation services to be offered include, but are not limited to, bargaining table mediation, grievance mediation, arbitration work and official card checks in union elections. Additionally, mediation staff members provide administrative assistance to the Labor Management Conference Committee in planning and conducting the Annual Labor Management Conference. Over the past three years, three (3) mediation staff positions were abolished. due to budget cutbacks. The mediation program is nearly non-existent at this time, due to the lack of personnel to respond to requests for mediation services.

In FY 2008-2009, Mediation conducted 20 dispute mediations, 14 grievance mediations, three (3) arbitrations and assisted with one (1) election. Mediation also assisted with the planning and facilitating of the annual Kentucky Labor Management Conference.

Fiscal Year Ending	*Dispute Mediation	**Grievance Mediation	***Labor/Mgt Committees	Arbitration	Elections	***Seminars
06-30-05	22	16	33	1	2	13
06-30-06	25	18	28	0	5	18
06-30-07	52	25	34	1	4	22
06-30-08	36	16	8	5	1	1
06-30-09	20	14	17	3	1	0
Total	155	89	120	10	13	54

* Cases in which joint and separate conferences were held. The 155 meetings reflect sessions held with 35 labor-management groups.

** Cases in which grievance mediation sessions were held. The 89 meetings involved 166 separate grievances submitted to mediation. The grievance activity involved 32 labor management groups.

*** Please note that prior to FY year ending June 30, 2007, the Labor Cabinet had two (2) mediators and a full time trainer. This accounts for the decline in seminars and Labor-Management Committee numbers.

The expansion section of the 2011-2012 biennial budget requests funding and a cap increase to restore the three (3) positions lost due to prior budget cuts.

PROGRAM AREA: THE DIVISION OF OCCUPATIONAL SAFETY AND HEALTH, EDUCATION AND TRAINING (OSH E&T)

DESCRIPTION: The Division of Occupational Safety and Health, Education and Training promotes voluntary compliance with the Kentucky Occupational Safety and Health rules and regulations by providing training, on-site consultations, distribution of technical and informational materials, gathering and monitoring statistical data concerning job injuries and illnesses, providing technical assistance and acting as a liaison between the Cabinet and the Kentucky Occupational Safety and Health Standards Board.

The Division of Occupational Safety and Health, Education and Training, since 1973, has offered a full range of voluntary compliance services, including cost-free on-site consultation, technical assistance, training programs and publications. The partnership and recognition programs include: the Kentucky Voluntary Protection Partnership (VPP), which is similar to the Federal Voluntary Protection Program; the Safety Partnership Program (SPP), that offers long term assistance to smaller employers who have a history of high injury/illness rates and high workers' compensation costs; and the Construction Partnership Program (CPP), which focuses specifically on partnering with contractors and builders to address the unique issues of the construction industry and to recognize employers with Voluntary Protection Partnership for Construction (VPPC).

FUNDING SOURCE: The funding for the Division of Occupational Safety and Health, Education and Training comes from restricted agency dollars (66 percent) collected through assessments from the Kentucky Workers' Compensation Funding Commission as described in KRS 342.122 and federal funding (34 percent) derived from a grant from the U.S. Department of Labor, Occupational Safety and Health Administration.

APPLICABLE STATUTES: The Division of Occupational Safety and Health, Education, and Training operates under the authority of KRS 388, 342, and Executive Order 2009-537. KRS 388 (passed by the 1972 General Assembly) created the statutory authority for the Kentucky Occupational Safety and Health Plan submission under CFR 29, Section 18 C of the *Occupational Safety and Health Act of 1970*. On July 31, 1973 the state plan was approved for the development stage by the U.S. Department of Labor and a determination of final program approval was made under section 18(e) of the Act on July 22, 1985.

PROGRAM STATUS: The Kentucky occupational safety and health consultation industrial hygiene training and safety training program is delivered by using highly qualified occupational safety and health professionals to help employers detect potential hazards at their worksite and to establish and maintain safe and healthful workplaces. The consultation program is completely voluntary. The program does not issue citations with penalties, but employers are required to correct all identified hazards as a condition of receiving program services. The Kentucky OSH consultation industrial hygiene and safety training program established a training career development plan for entry level employees. Five (5) Division of Education and Training employees received instructor training for the purpose of conducting the OSHA construction standards, 10-hour and 30-hour courses. In addition, three (3) Division of Education and Training employees received instructor training to conduct the OSHA 10-hour and OSHA 30-hour courses for general industry. These trainers will ensure the Kentucky OSH program has the capability to meet training obligations under partnership agreements, as well as outreach efforts for training in both construction and general industry.

The Safety and Health Training Branch has conducted 84 outreach training sessions and has developed several new outreach classes, including combustible dust. Personal protective equipment (PPE) for construction, mandated health programs, welding, back safety and ergonomics are also among the courses offered. The Branch has also offered eight (8) free population training sessions across the Commonwealth. Each session offered nine (9) courses relating to safety and health for the general industry and construction industry. The Division will train over 1600 participants in 2009.

The Division of Education and Training has on staff two (2) CIH/CSP (Certified Industrial Hygienist/Certified Safety Professional) employees, three (3) CSP certified employees, and four (4) CIH certified employees and two (2) OHST (Occupational Health and Safety Technicians) certified employees.

In FY 2009, the Division of Education and Training again initiated the Targeted Outreach Program (TOP), targeting companies with the highest injury/illness rates. Information was provided in a mailing to employers about cost-free Division of Education and Training compliance services that could address employers' extraordinarily high injury/illness rates. There were 97 companies who requested on-site consultative services. These services will

continue to be offered through FY 2010. Of those 97 requests, 56 companies were over the total case incident rate of 5.3. The Division of Education and Training is currently working on a six (6) month backlog, due to limited resources such as capped personnel positions, state budget reductions, and flat OSHA funding. Along with agency outreach programs, the Safety and Health Branch has managed to conduct 306 surveys for various companies across the Commonwealth.

The Kentucky OSH Voluntary Partnership Branch is designed to recognize and promote effective, systematic safety and health management. The guiding principle of the Voluntary Partnerships Program is that management, labor and KY OSH work together in a spirit of cooperation and trust in pursuit of a safe and healthful workplace. The partnership helps to provide early detection of workplace safety issues and provides guidance in the resolution of same, while simultaneously forging lasting relationships between the partners.

The Kentucky Safety and Health Achievement Recognition Program (SHARP), recognizes and exempts from general schedule inspections those small, high hazard employers who successfully operate exemplary and safer health management systems. Kentucky also offers, through the Safety Partnership Program (SPP), long term assistance to smaller employers who have a history of high injury/illness rates and high workers' compensation costs. In addition, the Construction Partnership Program (CPP) has been created to develop, formalize, and monitor partnerships in the construction industry. The Voluntary Protection Program (VPP) for Construction is designed for construction companies that provide exemplary worker protection by establishing effective safety and health management systems.

The Partnership Branch has added three (3) new SHARP (Safety and Health Achievement Recognition Program) participants, one (1) new VPP participant and is in the process of certifying another VPP; one new VPPC (construction); and several new CPP (Construction Partnership Program) participants, which includes a unique tri-partnership between the Kentucky occupational safety and health program, Denark Construction, and Eastern Kentucky University. College students enrolled in the construction management curriculum are very involved and are learning jobsite safety from a practical application.



Univance, Inc. and the Kentucky Labor Cabinet employees celebrate SHARP flag raising

The Kentucky Partnership Branch is also expanding the internal VPP and SHARP mentoring program. The project will identify companies that will be successful partners in one of the two programs, but who may not meet all the requirements at that particular time. The Partnership Branch will mentor and work with these companies to prepare them for successful application and qualification for the program of interest. For example, one of the companies with whom the Branch has successfully worked over the past two years is nearing the application process for VPP.

The same approach has been taken with a SHARP applicant who successfully joined the partnership family in April, 2009. This type of partnering has placed Kentucky at the forefront in working with safety partnerships.

Table 1.

Illustrates the Kentucky voluntary partnership program expansion in the past three years - these numbers reflect the number of participating companies.

Program	2007	2008	2009
VPP	11	11	12
SHARP	6	8	12
VPPC	1	1	2
CPP	4	5	8

The Kentucky Labor Statistical Services Branch works to provide statistical data to both the private and public sectors. Statistical data is provided on a calendar year basis and covers occupational injuries and workplace illnesses. The Branch has been very successful in 2009 on the OSHA Data Collection survey. The Federal Occupational Safety and Health Administration submits a random list of companies to the Kentucky Labor Cabinet to be surveyed for injuries and illnesses. The Kentucky response rate to the actual survey at this time is 85 percent. The national response rate at this time is percent. The anticipated clean rate for Kentucky is approximately 94 percent, far above the expected clean rate of 58 percent for September 21st, 2009. The Kentucky LOG (OSHA survey of injury and illness data) is in the top five (5) percentile in the United States, a distinguished recognition. The Census of Fatal Occupational Injuries and Illnesses has reported a total of 105 fatal work injuries for 2008, down from 112 fatal work injuries reported for 2007. Kentucky has completed and closed the Survey of Occupational Injury and Illness for 2008 at a 96 percent response rate with 100 percent coded, which are the highest rates in the region.

The Division of Occupational Safety and Health Training has experienced problems in case backlogs in both the safety and health consultation and training programs. The filling of vacant positions has been a problem due to the length of time it takes to fill a personnel register and the personnel cap placed on the Agency. The delays and the personnel cap have hampered the Division's ability to provide employees and employers with requested services. The federally mandated outreach programs were limited in 2009 because of the lack of safety and health consultants. Consultants are currently working on a six (6) month backlog.

As the result of the economic downturn, annual cost of living raises have been substantially reduced. Consequently, the reductions have negatively affected morale throughout the Cabinet. Improving morale with limited resources continues to be challenge.

The Kentucky VPP remains understaffed. Based upon recent annual production averages, additional senior consultants would generate an additional 15 on-site consultative assistance visits each, impacting over 1,500 employees and correcting over 150 serious workplace hazards. Additional consultants would permit an increase of approximately 30 training courses impacting 600 course attendees. The Division of Education and Training Partnership Branch currently has 12 recognized VPP sites and five (5) large companies ready to submit their applications. Due to limited resources, the Branch will not be able to accommodate all five (5) immediately. The Kentucky VPP is working at maximum capacity. The failure to provide requested services to those companies wishing to participate in the Division's programs will ultimately have a major negative impact on the health and safety of Kentucky's working population. For the reasons cited, the Division is requesting five (5) additional personnel in the 2011-2012 biennial budget. Hopefully, these positions will be approved and the Agency will then be able to meet requested demands and comply with the directives cited in regulations.

PROGRAM AREA: THE DIVISION OF OCCUPATIONAL SAFETY AND HEALTH COMPLIANCE (OSH)

DESCRIPTION: The Kentucky OSH Program was initially approved in 1973 and received final state plan approval on June 13, 1985. The primary purpose of the Program is to promote the safety, health, and general welfare of workers by ensuring that employers are preventing hazards to the safety and health of all employees arising from exposure to harmful conditions and practices in the work environment. The Program was further expanded on July 1, 1994 to improve safety and health practices in the workplace; to assure compliance with industrial health and safety regulations; and to expedite the processing of contested citations and appeals.

The General Assembly of Kentucky affirms that occupational accidents and diseases produce personal injuries and illness, including loss of life, as well as economic loss. Therefore, the enactment of legislation relative to the OSH Program declares that it is the purpose and policy of the Commonwealth to promote the safety, health and general welfare of its people covered by regulation by preventing any detriment to the safety and health of all employees, both public and private, arising out of exposure to harmful conditions and practices at places of work. In addition, the statutes declare that it is the intent of the OSH Program to preserve human resources by providing for education and training, inspection of workplaces, consultation services, research, reports and statistics and other means of furthering progress in the field of occupational safety and health. The key word in OSH regulation is "prevention". Concentrated efforts continue daily to prevent workplace injuries, while inspections after an injury, illness, or fatality occurs serve to correct safety or health hazard violations.

FUNDING SOURCE: The funding for the Division of Occupational Safety and Health Compliance is derived from 34 percent federal funds and 66 percent Workers' Compensation Special Fund assessments. The Occupational Safety and Health Compliance program is supported by federal grants from the U. S. Department of Labor and restricted funds from the Workers' Compensation Funding Commission pursuant to KRS 342.122.

APPLICABLE STATUTES: The Department of Workplace Standards, Division of Occupational Safety and Health Compliance operates under the authority of KRS 336, 338, 342, and Executive Order 2009-537.

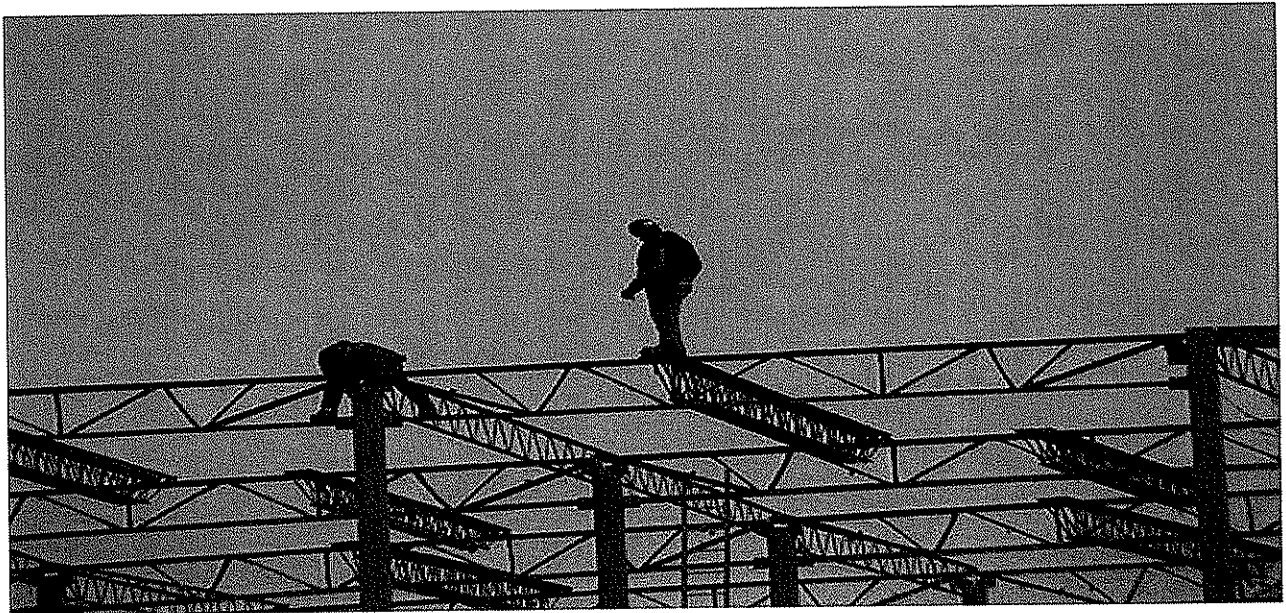
PROGRAM INFORMATION: Through a Safety Inspection Branch and a Health Inspection Branch, the Division maintains a field staff of safety compliance officers and industrial hygienists who conduct inspections of workplaces in which hazardous conditions are identified, violations of safety and health standards are cited and abatement dates are assigned. In some cases, penalties and fines are assessed for violations. Penalties collected by the Division of OSH are returned to the General Fund. However, no General Fund dollars are allocated to the Division. In 2008-2009, OSH inspectors issued citations carrying \$2,279,765 in penalties and collected \$1,441,389 in penalties that were deposited into the General Fund.

Many daily activities of the OSH program offer accomplishments, which are not easily measured. The impact of the on-site presence of OSH personnel, the hazards identified and corrected through inspection or consultation, the injuries, illnesses and fatalities prevented, while critically important, do not easily lend themselves singular classification as outstanding accomplishments. The day-to-day efforts of Kentucky OSH field personnel and office personnel, nevertheless, should not go unrecognized. During FY 2009, there were events, activities and results, which also warrant special attention as outstanding accomplishments.

The following photographs illustrate some of the typical day-to-day safety concerns encountered by inspections. The majority of violations are resolved before serious injury or death occurs. However, in some cases, the employee is not so lucky.



Roofer wearing safety gear improperly. D-ring harness connection should be on the back not the chest.



Construction workers on a high-rise without safety harnesses or other safety gear.

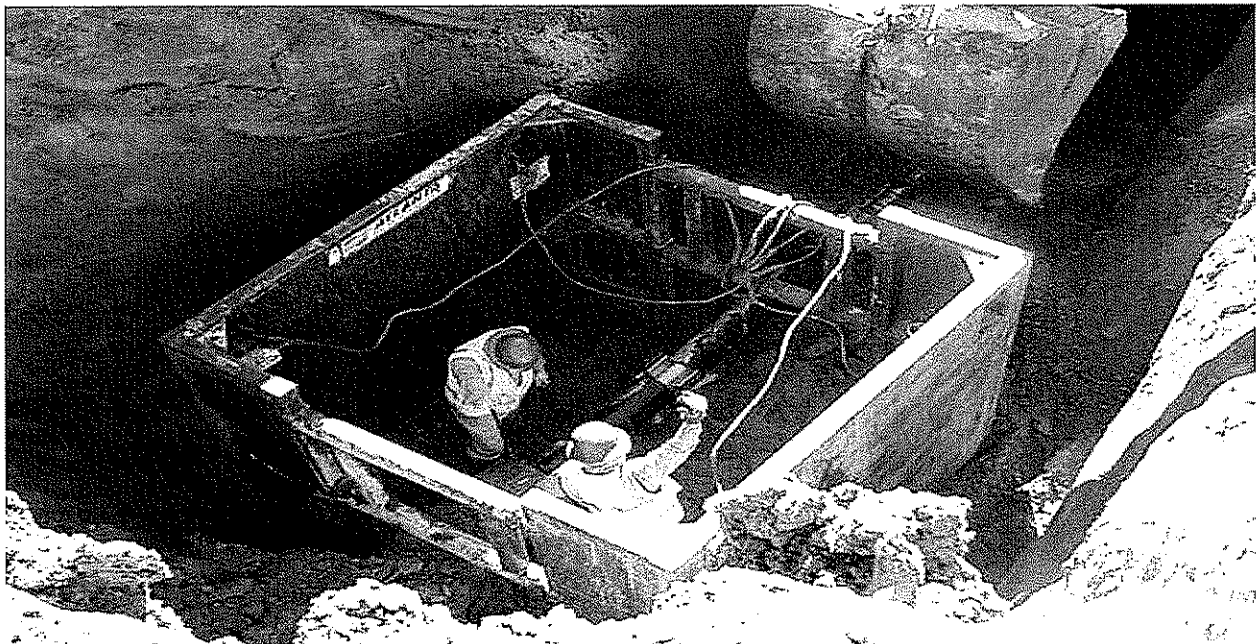
During FY 2009, Kentucky conducted 877 construction inspections, as identified by SIC codes from OSH-1s. Compliance remains focused on fall protection as the top construction standard cited in Kentucky during FY 2009. In FY 2009, Kentucky cited 29 CFR 1926.501 (duty to have fall protection) a total of 610 times with a total proposed penalty of \$356,555.

In conjunction with a compliance emphasis program, Kentucky's fall protection regulation, 803 KAR 2:412, was amended in 2006 to specifically address residential construction. The regulation, which became effective on January 6, 2006, defines residential construction in Kentucky as construction work on a stand alone single family dwelling, duplex, three (3) plex, or four (4) plex structure. Employees engaged in residential construction activities working ten (10) feet or more above a lower level who are exposed to unprotected sides and edges, leading edges, hoist areas, form work and reinforcing steel, or roofing work on roof slopes three (3) in twelve (12) or less, must be

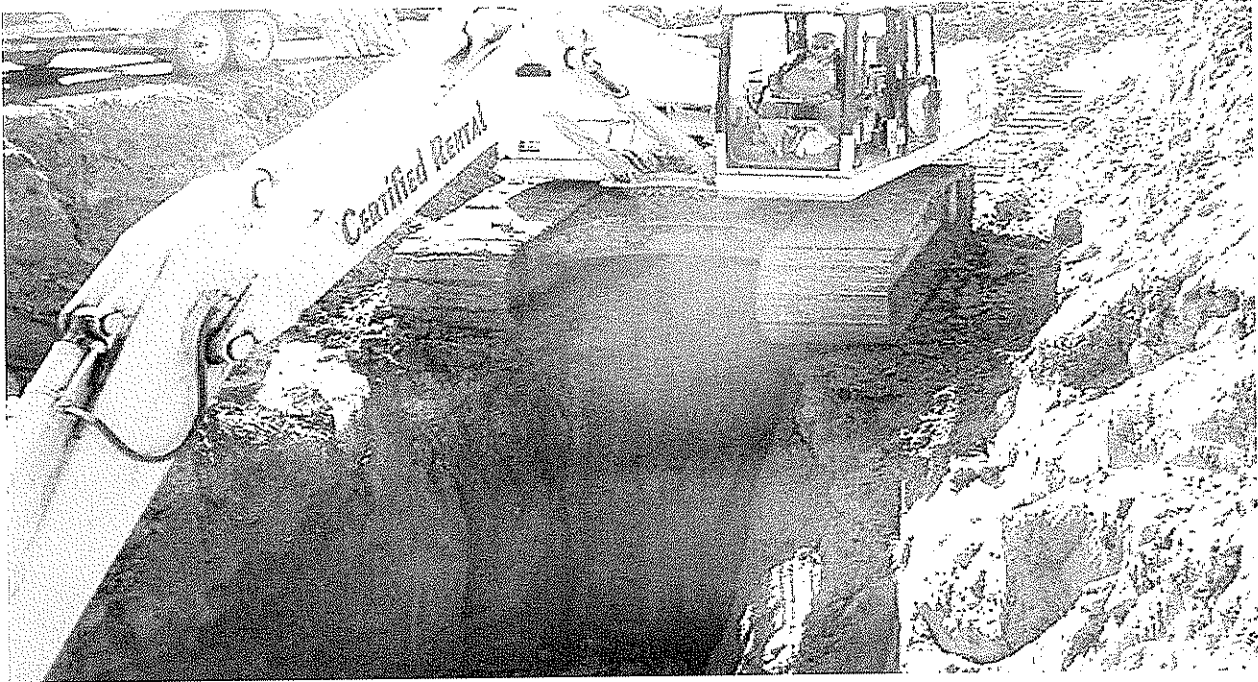
protected by guardrail systems, safety net systems, personal fall arrest systems, or a specific alternative measure established in the regulation.



Excavation of a fifty-foot trench without appropriate safety measures in place.



Excavation of a fifty-foot trench without appropriate safety measures. The gondola should be 18 inches above the trench line.

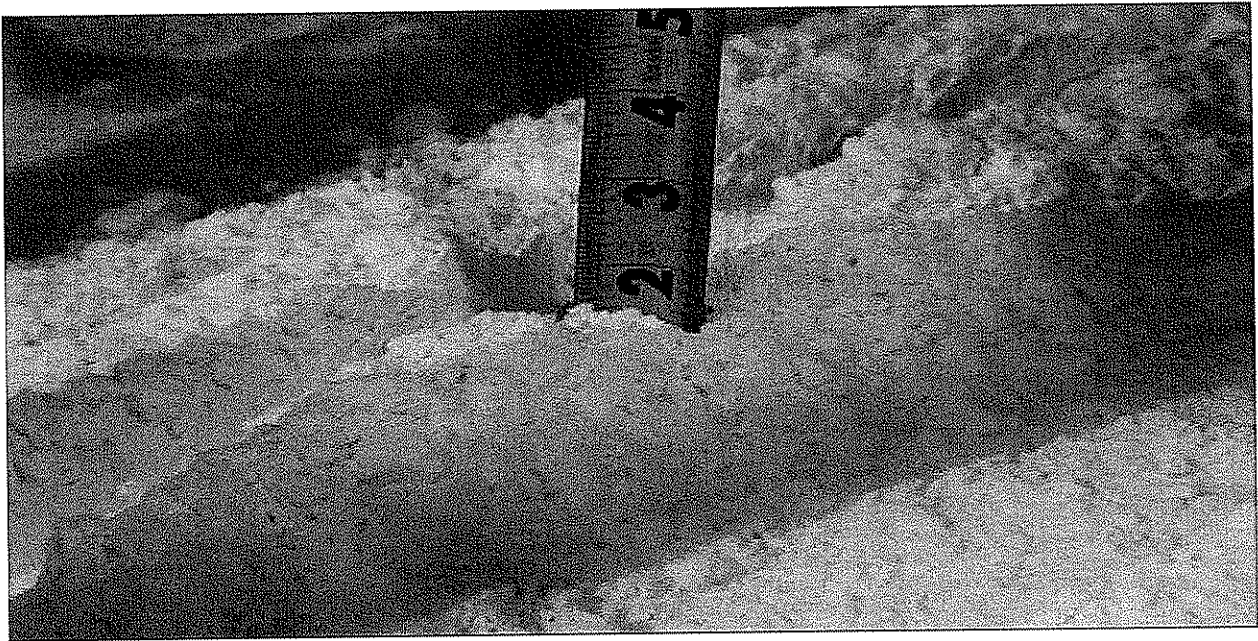


The blue trenching Gondola shown previously is located fifty feet down into this trench.

In FY 2009, the Division of Compliance conducted 225 total reported imminent danger inspections. This represents a 226 percent increase in the number of imminent danger referrals and complaints responded to by the Division of Compliance since FY 2004. This increase in response to reports of imminent danger during FY 2009 can be due to an increased awareness of fall and trenching hazards in the commercial and residential construction industry.

Penalty Chapter VI of the Division of Compliance's Field Operations Manual was revised and implemented for all new inspections opened after January 1, 2007. On January 8, 2008, Kentucky reverted to the penalty calculation system in effect prior to January 1, 2007.

The Division of Compliance continues to focus on the hazards of combustible dust in the workplace. Many of these inspections have resulted in the issuance of violations related to combustible dust hazards in the workplace. The Division of Compliance performed nine (9) inspections related to combustible dust in FY 2009. Kentucky Labor Cabinet entered into an Interagency Agreement in 2005 with the Office of Housing, Building and Construction, Division of Fire Prevention (State Fire Marshal). During the inspection of industrial facilities in which the potential for combustible dust hazards may exist, the State Fire Marshal will inform management of education and technical assistance services which are available from the Kentucky OSH's Division of Education and Training. If there are safety and health issues, the State Fire Marshal will make a referral to the Division of Compliance. If the Kentucky OSH program becomes aware of the existence of fire and safety issue, it will notify the State Fire Marshal. Both the State Fire Marshal and the Division of Compliance will cooperate in the investigation of all fires and explosions involving combustible dust. The Kentucky Labor Cabinet and State Fire Marshal are in cooperation in investigating jointly, when possible, and identifying facilities where there are combustible dust hazards.



This photo shows nearly two inches of combustible dust in an actual work site.

The Kentucky Division of Compliance has entered into an arrangement with the Division of Air Quality in the Department for Environmental Protection in the Energy and Environment Cabinet to alert OSH to asbestos removal conducted in the Commonwealth. Employers are required to notify the Division of Air Quality 10 days in advance of any job involving asbestos removal.

The Division of Compliance also receives notices of injuries involving occupational-related toxins and poisons from The Kentucky Regional Poison Center of Kosair Children's Hospital. These notices have alerted the Division of Compliance to events it might not otherwise have learned. These notices resulted in citations and penalties. This informal arrangement and notices provide a mechanism to protect employees from future exposures.

Kentucky conducted an inspection in FY 2008 of the Catlettsburg Refinery under the National Emphasis Program for the petrochemical industry. One non-serious violation was issued.

During 2009, OSH maintained three (3) occupational health and safety technicians (OHST), one construction safety and health technician (CHST), and two (2) certified safety professionals (CSP). At least two other compliance officers are studying for their CSP exam and ASP exam. The Division of OSH continues to encourage and promote personnel who may achieve certification in the safety and health field. The Division of OSH has one safety supervisor who is a Certified Public Manager and the health program manager has his Certified Fundamentals Manager designation. The Division of OSH is paying for four safety inspectors to attend Eastern Kentucky University graduate program seeking Master of Science degrees in Safety, Security, and Emergency Management and a fifth safety inspector is completing coursework that will earn him a Master of Science degree in Industrial Technology by the end of calendar year 2009.

As a result of a new reporting regulation which requires employers to report hospitalizations and all amputations within 72 hours, the Division of OSH received 157 reports of hospitalizations or amputations during FY 2009. Of the 157 reports of hospitalizations/amputations during FY 2009, 55 were amputations and 102 were hospitalizations. Of the investigations conducted, the Division of OSH cited 52 companies for a total of 113 violations. Thirty-five of the companies cited resulted from amputations and 17 from hospitalizations. Twenty-seven investigations did not result in citations and nine (9) investigations turned into no inspections. Of the 113 violations issued, one (1) was willful, one (1) was repeat serious, 99 were serious, and 12 were non-serious, for a total penalty of \$271,900.00. The Division is working with the Cabinet's Technical Support Branch to develop a web-based database. It is currently in the testing phase and, when implemented, will facilitate data entry and retrieval.

The Division of OSH is not without problems. The Kentucky OSH Program was initially approved in 1973 and received final state plan approval June 13, 1985. Kentucky was the first state plan approved under the revised

federal benchmarks. Those federal benchmarks were 23 safety compliance officers and 15 industrial hygienists for a total of 38 inspectors. In 1994, the Kentucky General Assembly expanded the Kentucky OSH staff by 16 employees, with seven (7) of that number assigned to the Division of OSH, bringing the total number of inspectors to 45. Today, the Division has only 41 inspectors. In 1994, the Division of OSH had 39 inspector positions. Kentucky OSH is in relatively the same staffing position as it was 23 years ago in 1986.

The key word in KRS 338.011 is "preventing." Inspecting a facility after an injury, illness, or fatality has occurred operates to correct safety or health hazards, but does nothing to prevent the injury, illness, or death of the employee(s) who were exposed to the hazardous condition before the inspection. The Division has suffered substantial employee turnover in the past six years. As the result of fewer inspectors and more inspectors that are less experienced, the supervisor assigns the higher-priority inspections first. The routine safety inspections are done as time permits. The turnover rate for OSH since January 1, 2003, is 34 inspectors. The Division has replaced only 22 of the 34. Of those 22, 13 have less than three (3) years experience. The 34 lost represents more than 83 percent turnover of the total OSH inspection staff in six (6) years. OSH has already lost three (3) employees in 2009 with a total of 23.5 years experience. Because of the reduced and inexperienced staff and the number of unprogrammed inspections, OSH Compliance has been unable to conduct many of the follow-up inspections to ensure that employers have adequately abated hazards discovered during inspections. In 1986, OSH Compliance conducted 255 follow-up inspections as compared to 75 in 2009. This represents a 71 percent reduction in the number of inspections whose purpose is to determine abatement of hazardous conditions.

In addition to staffing shortages, the average number of hours required for a safety inspection has been increasing over the past 22 years. Compared to twenty-two years ago, the actual time required for each inspection has more than doubled. One of the factors influencing this trend is the increase in the percentage of contested cases and the amount of documentation required to substantiate violations. Since the Office of the Attorney General's Division of Administrative Hearings started hearing OSH cases in the mid-90s, evidentiary requirements were more strictly followed so that the method used to gather evidence can determine its admissibility in the administrative hearing. The process has necessitated a change in evidence-gathering, resulting in an increase in the time it takes the inspector to complete an inspection. Employers are also becoming more savvy in non-disclosure techniques for fact finding during the initial investigation. Information needed for an administrative hearing is not often available during the first visit to the job site. Employers also are discovering new ways to increase inspection time by claiming they have no employees, or by claiming that employees are independent contractors. The legal name of an entity is vital to the issuance and prosecution of violations. Extensive investigation is often necessary to discover the true legal name of the business, which adds time to the overall investigative process. Collectively, all these issues have worked together to increase the amount of time an inspector must spend on each inspection. Finally, the percentage of inspections with citations contested has risen from 7.8 percent in 1987 to 13.2 percent in 2009. That trend is expected to continue in 2010 and on into the next biennium.

OSH cannot compete with private sector employee salaries for safety inspectors, nor can the Division compete with other state agencies which may provide more levels of classifications for personal advancement. Once an inspector reaches a certain level, he or she cannot advance further. This highly skilled employee is forced, as the result of the state's classification system, to remain in a position where salary advancements are a meager one (1) percent or two (2) percent per year. Morale suffers and the more experienced highly sought after personnel leave the Division's employ for higher salaries and better benefits.

If an effort to resolve some of the staffing problems, OSH is asking for a personnel cap increase during the 2011-2012 biennial expansion budget process. If approved, the expansion will increase current staffing levels from 51 full-time personnel positions to 56 full-time employees. The new positions, if approved, will be allocated three (3) to the Safety Branch and two (2) to the Health Branch.

The following tables illustrate the successes and concerns of the OSH program, in addition to the business outcomes for the past several years. Additional personnel, adequate budget allocations for training, travel, publications, expert trainers, equipment, laboratory expenses, IT services, employee physicals, teaching publications and research materials are essential to the statutory mandates for the KYOSH program.

The Division of Compliance is also responsible for the enforcement of the state's occupational safety and health anti-discrimination provisions. KRS 338.121(3) offers protection to employees from reprisals that could result from the exercise of rights afforded by the occupational safety and health statutes. A system of citations and penalties, appeals to the OSH Review Commission and reinstatement authority by the Commissioner, while final determination is pending before the Review Commission, distinguish the Kentucky anti-discrimination effort. In addition, 803 KAR 2:240 allows any employee who believes he/she has been the victim of discrimination the right

to file a complaint within 120 days of the alleged violation, as opposed to the thirty (30) days allowed by federal law. The Division of Compliance received 83 alleged discrimination complaints in FY 2009. The Division opened 31 alleged discrimination complaints and referred 52 complaints to other agencies or did not accept for investigation. Of the 31 investigations, two (2) were settled without penalties, one (1) settled with a \$2,500 penalty, 26 were unfounded, and two (2) are currently open. The average time to complete a discrimination investigation is approximately 70 days.

BUSINESS OUTCOMES

Table 1.

Illustrates that OSH Compliance conducted 909, or 41 percent, fewer total inspections in 2009 than it did in 1987.

Fiscal Year	Total No. of Safety Inspections
1987	2,218
1994	1,336
2004	1,808
2005	1,804
2006	1,474
2007	1,391
2008	1,276
2009	1,309
2010 *	310

* From July 1, 2009 through September 28, 2009

Table 2.

Illustrates that OSH conducted 60 percent fewer general (programmed) schedule inspections in 2009 than in 2004 and 87 percent fewer inspections than in 1987. When compared to Table 1, OSH is conducting 16 percent general scheduled inspections in 2009 compared to 72 percent in 1987.

Fiscal Year	Programmed Inspections (Planned)
1987	1,606
1994	492
2004	538
2005	429
2006	238
2007	263
2008	271
2009	218
2010 **	47

** From July 1, 2009 through September 28, 2009

Table 3.

Illustrates the number of unprogrammed inspections that OSH has conducted during prior years. The percentages of accident/ complaint / referral / amputation / hospitalization / unprogrammed related / follow-up inspections out of the total number of inspections have been increasing over the years. These types of inspections, and from 2006, the programmed other inspections, represent partial inspections (hospitalization and amputation inspections are coded as programmed other). In the cases of accident/complaint/referral/amputation/hospitalization/unprogrammed related/follow-up, the inspector just looked at items specific to these issues. The percentage of general schedule (comprehensive) inspections, as related to the total number of inspections, is decreasing.

Fiscal Year	Percentage	Unprogrammed Inspections/Follow-up Inspections *
1987	27	597
1994	35	467
2004	37	663
2005	42	813
2006	66	980
2007	69	964
2008	64	823
2009	58	755
2010 **	65	201

* The reporting regulation went into effect November 1, 2006.

** From July 1, 2009 through September 28, 2009

Table 4.

Illustrates the number of employees covered by OSH inspections.

Fiscal Year	Employees Covered by OSH Inspections
1987	84,948
1994	75,347
2004	95,979
2005	76,416
2006	86,355
2007	74,499
2008	76,757
2009	69,975
2010 *	22,865

*From July 1, 2009 through September 28, 2009

According to this table, OSH Compliance has steadily decreased the number of employees covered by inspections. OSH covered 26,004, or 27 percent fewer employees in 2009 than in 2004 and 14,973, or 18 percent fewer than in 1987.

Table 5.

Illustrates OSH Compliance issued 1,267, or 47 percent, fewer total citations in 2009 than in 2004 and 3,434, or 71 percent, fewer citations than in 1987.

Fiscal Year	Total Number of Violations Issued
1987	4,889
1994	3,462
2004	2,722
2005	2,544
2006	1,782
2007	1,775
2008	1,905
2009	1,455
2010 *	452

* From July 1, 2009 through September 28, 2009

Table 6.

Illustrates OSH Compliance issued 313, or 16 percent, fewer serious citations in 2009 than in 2004 and 280, or 14 percent, fewer serious violations in 1994.

Fiscal Year	Total Number of Serious Violations Issued
1987	942
1994	1,168
2004	1,201
2005	1,180
2006	990
2007	1,045
2008	1,138
2009	888
2010 *	314

* From July 1, 2009 through September 28, 2009

Table 7.

Illustrates total number of inspections from hospital reports. This reporting regulation became effective November 1, 2006. Some of the inspections for reported hospitalizations and amputations may have been conducted as complaints or referrals reported by the injured employee or his or her representative. Hospitalization and amputation inspections are not coded as referrals or complaints, but as programmed other. The ability to conduct more general schedule inspections and follow-ups may have prevented some of the amputations and hospitalizations.

Fiscal Year	Total Number of Inspections from Hospital Reports
2008	12
2009	65
2010 *	26

* From July 1, 2009 through September 28, 2009

Table 8.

Illustrates the total number of health and safety inspectors conducting inspections during a reporting calendar year.

Fiscal Year	Total Number of Health/Safety Inspectors
1987	31
1994	37
2004	44
2005	43
2006	44
2007	40
2008	44
2009	30
2010 *	44

* As of November 12, 2009

Table 9.

Illustrates the average number of hours spent on each health and safety inspection today as compared to the amount of time spent per inspection in 1987.

Fiscal Year	Average Number of Hours Per Safety and Health Inspection
1987	22.5
2004	39.9
2009	46.5

PROGRAM AREA: THE DIVISION OF WORKERS' COMPENSATION FUNDS

DESCRIPTION: The primary goals and objectives of the Division of Workers' Compensation Funds are the efficient administration of the special fund and coal workers' pneumoconiosis fund and maintenance of records regarding payment of claims by the funds. Furthermore, the Division strives for timely and accurate benefit payments and maintenance of complete and accurate records for audit and financial purposes. The Division of Workers' Compensation Funds exists pursuant to KRS 342.120. The Division is headed by a director who oversees a professional administrative staff consisting of eight employees.

FUNDING SOURCE: Appropriations for the special fund are derived from assessments against workers' compensation insurance premiums (or simulated premiums for self-insurance) paid by all Kentucky employers pursuant to KRS 342.122. The coal fund is funded entirely by employers engaged in the severance or processing of coal through assessments against workers' compensation insurance premiums (or simulated self-insurance premiums) and assessments against tons of coal severed pursuant to KRS 342.1242. All assessments are collected, managed and invested by the Kentucky Workers' Compensation Funding Commission pursuant to KRS 342.122; 342.1223; and 342.1242.

APPLICABLE STATUTES: The Division of Coal Workers' Compensation Funds is operating under the authority of KRS 342.120; 342.1242; and 803 KAR 25:009, Section 7.

PROGRAM STATUS: Beneficiaries of the coal workers' pneumoconiosis fund are Kentucky coal miners with a compensable form of coal workers' pneumoconiosis and a last exposure to occupational coal dust after December 12, 1996.

Major reform legislation in 1996, known as House Bill 1, abolished special fund liability for injuries (and for diseases, last injurious exposures) occurring after December 12, 1996. However, the reform legislation did not affect the incurred liability of the fund (recently actuarially valued at \$1.482 billion), and the ongoing obligation to pay income benefits to beneficiaries who have awards against the special fund. Division records reflect that the fund has liability in 10,591 open claims, nearly all of which are payable for the life of the injured worker. Thus, even though fund liability as described above has been abolished, the Division will pay special fund income benefits for incurred liability well into this century.

The 1996 Reform Bill also created the coal workers' pneumoconiosis fund (coal fund) to assure that liabilities for coal workers' pneumoconiosis resulting from last exposures after December 12, 1996, be the financial responsibility of employers engaged in the severance and processing of coal. (See KRS 342.1241.) The coal fund is liable for one-half of awarded income and retraining benefits, payable contemporaneously with employer paid benefits. (See KRS 342.1242.)

Table 1.

Special Fund	Fiscal Year 2007-2008	Fiscal Year 2008-2009
Benefits Paid	\$68,897,126	\$67,160,210
Ave. Pmts. Per Month	\$ 14,520	\$ 14,164

Table 2.

Coal Fund	Fiscal Year 2007-2008	Fiscal Year 2008-2009
Benefits Paid	\$1,252,635	\$1,083,211
B-Reader Fees	\$ 16,100	\$ 20,100
Pmts. Per Month Average	232	251
New Awards/ Settlements	34	21

The Division is not seeking additional funding for the 2011-2012 biennial budget year

RECEIPT**Department of Workplace Standards****General Funds****1,956,700.00****Insurance Administration Funds****79,008,326.96**

Carry-Forward from FY 2008 6,185,563.95
Transfers From Worker' Comp Funding
Commission 70,471,425.72

Prior Year Refunds 59.39

Insurance Reimbursements 1,547,137.91
Other Receipts

Transferred Fund by GAPS for Indirect Cost 177,864.99**Federal Funds****3,024,899.50**

Carry-Forward from FY 2008 13,106.34

Transfer from U.S. Department of Labor 3,011,793.16**Department of Workplace Standards (Department
106) Totals****83,989,926.46****Commissioner's Office****General Fund****Insurance Administration Funds****700,838.41**

Carry-Forward from FY 2008 480,643.47
Transfers From Worker Comp Funding
Commission 220,194.94

Prior Year Refunds
Insurance Reimbursements
Other Receipts
Transferred Fund by GAPS for Indirect
Cost

Federal Funds

Carry-Forward from FY 2008
Transfer from U.S. Department of
Labor

Commissioner's Office Total Receipts**700,838.41****Compliance****General Fund****Insurance Administration Funds****2,121,553.47**

Carry-Forward from FY 2008
Transfers From Worker' Comp
Funding Commission 2,121,530.78
Prior Year Refunds 22.69
Insurance Reimbursements
Other Receipts
Transferred Fund by GAPS for Indirect
Cost

Federal Funds

Carry-Forward from FY 2008 10,792.10
Transfer from U.S. Department of
Labor 1,326,549.42

Compliance Total Receipts**1,337,341.52****2,121,553.47****Education & Training**

General Fund		
Insurance Administration Funds		1,817,401.69
Carry-Forward from FY 2008		
Transfers From Workers' Comp		
Funding Commission	1,639,500.00	
Prior Year Refunds	36.70	
Insurance Reimbursements		
Other Receipts		
Transferred Fund by GAPS for Indirect Cost	<u>177,864.99</u>	
Federal Funds		1,687,557.98
Carry-Forward from FY 2008	2,314.24	
Transfer from U.S. Department of Labor	<u>1,685,243.74</u>	
Education & Training Total Receipts		1,995,266.68
Employment Standards		
General Fund		1,956,700.00
Insurance Administration Funds		
Carry-Forward from FY 2008		
Transfers From Workers' Comp		
Funding Commission		
Prior Year Refunds		
Insurance Reimbursements		
Other Receipts		
Transferred Fund by GAPS for Indirect Cost		
Federal Funds		
Carry-Forward from FY 2008		
Transfer from U.S. Department of Labor		
Employment Standards Total Receipts		1,956,700.00
Special Fund		
General Fund		
Insurance Administration Funds		72,969,159.16
Carry-Forward from FY 2008	5,605,726.25	
Transfers From Workers' Comp		
Funding Commission	65,561,200.00	
Prior Year Refunds		
Insurance Reimbursements	1,547,137.91	
Other Receipts	255,095.00	
Transferred Fund by GAPS for Indirect Cost		
Federal Funds		
Carry-Forward from FY 2008		
Transfer from U.S. Department of Labor		
Special Fund Total Receipts		72,969,159.16
Coal Workers' Pneumoconiosis Fund		
General Fund		
Insurance Administration Funds		1,399,374.23
Carry-Forward from FY 2008	99,194.23	
Transfers From Workers' Comp		
Funding Commission	929,000.00	
Prior Year Refunds		
Insurance Reimbursements		

Other Receipts	371,180.00
Transferred Fund by GAPS for Indirect Cost	
Federal Funds	
Carry-Forward from FY 2008	
Transfer from U.S. Department of Labor	
Coal Workers' Pneumoconiosis Fund	
Total Receipts	1,399,374.23

EXPENDITURES**Department of Workplace Standards**

Personnel	7,901,898.21
Operating	1,622,043.87
Awards	68,459,420.46
Capital Outlay	<u>85,131.44</u>
Total Expenditures	78,068,493.98

Commissioner' s Office

Personnel	176,799.02
Operating	42,623.12
Awards	
Capital Outlay	<u>3,624.60</u>
Total Expenditures	223,046.74

Compliance

Personnel	2,509,384.01
Operating	574,617.28
Awards	216,000.00
Capital Outlay	<u>38,140.80</u>
Total Expenditures	3,338,142.09

Education & Training

Personnel	2,913,808.06
Operating	595,333.99
Awards	
Capital Outlay	<u>32,451.08</u>
Total Expenditures	3,541,593.13

Employment Standards

Personnel	1,705,494.79
Operating	251,205.21
Awards	
Capital Outlay	
Total Expenditures	1,956,700.00

Special Fund

Personnel	477,447.09
Operating	148,207.99

	Awards	67,160,209.81
	Capital Outlay	<u>10,427.45</u>
Total Expenditures		67,796,292.34
Coal Workers' Pneumoconiosis Fund		
	Personnel	118,965.24
	Operating	10,056.28
	Awards	1,083,210.65
	Capital Outlay	<u>487.51</u>
Total Expenditures		1,212,719.68

PROGRAM AREA: DEPARTMENT OF WORKERS' CLAIMS

DESCRIPTION: The primary function of the Department of Workers' Claims is to enforce statutes with regard to workers' compensation insurance coverage for Kentucky's 2.1 million employees, ensuring fair treatment of persons injured on the job, and restoring injured persons to gainful employment expeditiously. This goal is accomplished through a complex system of administration, enforcement, and adjudication.

The original Workers' Compensation Act was adopted in 1916, whereby employees were granted replacement income and medical services for disability arising from on-the-job accidents. In exchange, employers were afforded immunity from common lawsuits. Over the past 93 years, the Workers' Compensation Program has undergone major changes with the most significant coming in the form of House Bill 928 adopted into law in 1994 of the Regular Session of the Kentucky General Assembly. Prior to 1994, the main function of the Department was to adjudicate disputes between employers and employees about entitlement to benefits. However, through the impetus of the 1994 statutory changes, the means of delivering industrial health care was altered and efforts to curtail the expansion of benefits began. In addition, the administrative and adjudicative arms of the Program were strengthened and expanded.

Later, in 1996, House Bill 1, passed by the Extraordinary Session of the General Assembly, completed the reform of the Workers' Compensation Program in Kentucky. This legislation emphasizes administrative resolution of benefit disputes rather than adjudicative claims processing. Furthermore, the new law marks a shift toward fiscal responsibility in the Workers' Compensation Program and is intended to roll back the annual expenditures paid each year by the Commonwealth's employers to sustain the Program. House Bill 1 is a positive step in the effort to promptly deliver wage replacement benefits and medical services to industrially injured workers in a non-adversarial manner.

The Department of Workers' Claims is headed by a Commissioner, who is appointed by the Governor and confirmed by the Senate. The Commissioner acts as the appointing authority for the Department. In addition to the Office of the Commissioner, the Department is comprised of the Office of General Counsel; the Workers' Compensation Board; the Office of Administrative Law Judges; the Division of Claims Processing; the Division of Security and Compliance; the Division of Information and Research; and the Division of Ombudsmen and Workers' Compensation Specialist Services.

The primary objectives of the Department of Workers' Claims is the competent and responsive delivery of services to stakeholders; the desire to foster stakeholder knowledge of their rights and responsibilities under the Worker's Compensation Act; to insure the prompt delivery of statutory benefits including medical services and indemnity payments; to include the stakeholder in the development of policy and delivery mechanisms that will expedite the delivery of benefits and services to the injured worker; to provide the public and policy makers with accurate and current indicators of program performance; and to anticipate changes in the Program environment and to respond appropriately.

FUNDING SOURCES: The funding for the administration of the Department of Workers' Claims is restricted agency receipts provided by assessments against workers' compensation insurance premiums (or simulated premiums for self-insurance paid by all Kentucky employers pursuant to KRS 342.122). All assessments are collected, managed, invested and disbursed by the Kentucky Workers' Compensation Funding Commission pursuant to KRS 342.122; KRS 342.1223; and KRS 342.1242.

APPLICABLE STATUTES: The Department of Workers' Claims within the Kentucky Labor Cabinet operates under the authority of KRS 11, 342, 336, and Executive Order 2009-537.

PROGRAM STATUS: The Commissioner of the Department of Workers' Claims, under the directive of KRS 342.230(2) and KRS 342.435, will prepare and file an agency report for submission to the Governor under separate cover. The financial report of this Division is included herein.

RECEIPT**Department of Workers' Claims****Insurance Administration Funds**

Carry-Forward from FY 2008	675,569.84
Transfers From Workers' Comp Funding	
Commission	13,509,992.47
Prior Year Refunds	
General Sales	<u>132,338.30</u>

Department of Workers' Claims (Department 107) Totals	14,317,900.61
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Commissioner's Office**Insurance Administration Funds**

Carry-Forward from FY 2008	675,569.84
Transfers From Workers' Comp Funding	
Commission	1,486,000.00
Prior Year Refunds	
General Sales	<u>132,338.30</u>

Commissioner's Office Total Receipts	2,293,908.14
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Division of Information & Research**Insurance Administration Funds**

Carry-Forward from FY 2008	
Transfers From Worker Comp Funding	
Commission	1,479,200.00
Prior Year Refunds	
General Sales	

Division of Information & Research Total Receipts	1,479,200.00
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Division of Claims Processing**Insurance Administration Funds**

Carry-Forward from FY 2008	
Transfers From Workers' Comp Funding	
Commission	1,012,400.00
Prior Year Refunds	
General Sales	

Division of Claims Processing Total Receipts	1,012,400.00
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Office of Administrative Law Judges**Insurance Administration Funds**

Carry-Forward from FY 2008	
Transfers From Worker Comp Funding	
Commission	5,100,600.00
Prior Year Refunds	
General Sales	

Office of Administrative Law Judges Total Receipts	5,100,600.00
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Division of Security & Compliance**Insurance Administration Funds**

Carry-Forward from FY 2008	
Transfers From Workers' Comp Funding	
Commission	1,861,100.00
Prior Year Refunds	
General Sales	
Division of Security & Compliance Total	
Receipts	1,861,100.00
 Workers' Compensation Board	
Insurance Administration Funds	
Carry-Forward from FY 2008	
Transfers From Workers' Comp Funding	
Commission	943,392.47
Prior Year Refunds	
General Sales	
Workers' Compensation Board Total Receipts	943,392.47
 Division of Ombudsman & WC Specialist	
Insurance Administration Funds	
Carry-Forward from FY 2008	
Transfers From Workers' Comp Funding	
Commission	1,627,300.00
Prior Year Refunds	
General Sales	
Division of Ombudsman & WC Specialist Total	
Receipts	1,627,300.00

EXPENDITURES**Department of Workers' Claims**

Personnel	9,680,784.51
Operating	1,845,916.26
Awards	
Capital Outlay	

Total	11,526,700.77
Expenditures	

Commissioner' s Office

Personnel	1,515,070.14
Operating	633,742.47
Awards	
Capital Outlay	

Total Expenditures	2,148,812.61
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Division of Information and Research

Personnel	1,073,910.26
Operating	236,125.83
Awards	
Capital Outlay	

Total Expenditures	1,310,036.09
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Division of Claims Processing

Personnel	817,467.41
Operating	121,820.68
Awards	
Capital Outlay	

Total Expenditures	939,288.09
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Office of Administrative Law Judges

Personnel	3,960,424.96
Operating	854,227.28
Awards	
Capital Outlay	

Total Expenditures	4,814,652.24
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Division of Security and Compliance

Personnel	1,494,308.92
Operating	255,015.28
Awards	
Capital Outlay	

Total Expenditures	1,749,324.20
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Workers' Compensation Board

Personnel	819,602.82
Operating Awards	84,006.10
Capital Outlay	
Total Expenditures	903,608.92

Division of Ombudsman & WC Specialist

Personnel	1,353,751.39
Operating Awards	153,961.68
Capital Outlay	
Total Expenditures	1,507,713.07

PROGRAM AREA: THE OFFICE OF GENERAL ADMINISTRATION AND PROGRAM SUPPORT

DESCRIPTION: The Office of General Administration and Program Support (GAPS) includes the Office of the Executive Director, the Division of Human Resources Management, the Division of Fiscal Management, the Division of Budgets and the Division of Information Services. The Office of the Executive Director is responsible for final administrative and programmatic decision-making with regard to GAPS. However, GAPS is affixed to the Labor Cabinet for administrative purposes only and the Labor Cabinet Secretary serves as the appointing authority for the Office. GAPS serves as the administrative, personnel, fiscal, budget and technology support arm for the Labor Cabinet, the Public Protection Cabinet, and the Environment and Energy Cabinet

FUNDING SOURCE: GAPS is funded with 44 percent restricted agency receipts collected from assessments levied against workers' compensation insurance premiums (or simulated premiums) per KRS 342.122, 55 percent General Fund dollars and one (1) percent federal funds.

APPLICABLE STATUTES: Executive Order 2008-472; Executive Order 2009-537; and KRS 342 and 12.050.

PROGRAM STATUS: The Executive Director's office provides leadership and direction for each of the four divisions within GAPS and the Operations Branch. The Operations Branch administers the Cabinets' motor pool, manages the Cabinets' fuel card program, establishes policies for vehicle operation and coordinates with the Department of Insurance to ensure the vehicles have proper coverage.

Matters relative to lease and rental properties and equipment are also managed by the Operations Branch. This includes the state-owned facilities occupied by the Cabinets, as well as office and storage space and lands leased in.

With the exception of the Labor Cabinet, the Operations Branch also maintains all the Cabinets' contracts for cell phones and other mobile communications equipment. Installation and maintenance of the Cabinets' office telephone systems and wiring of office computer systems is performed by the Branch as well.

GAPS/DIVISION OF FISCAL MANAGEMENT: The Division of Fiscal Management was established to provide oversight, direction and support to the three cabinets. The Division is assigned pre-audit authority for the three cabinets' numerous divisions and offices. In addition, the Division acts as liaison with the Finance and Administration Cabinet, the Legislative Research Commission, federal awarding agencies and the Auditor of Public Accounts.

The Division of Fiscal Management oversees all centralized accounting and purchasing functions of the three cabinets. The Division consists of the Director's Office and three branches. The Director serves as fiscal officer and eMARS security lead for the three cabinets. Additional responsibilities include negotiating an indirect cost plan, answering audit inquiries, issuing specialized reports, coordinating fiscal year-end closing and maintaining centralized fiscal documents according to the Library and Archives agreement.

GAPS/DIVISION OF HUMAN RESOURCES: The Division of Human Resources Management administers personnel policies, payroll policies and processing procedures, employment and development training and employee relations for 3,000 plus employees. The purpose of the Division is multifaceted, but can generally be divided into three categories:

1. Ensure legal compliance with state and federal employment law, including training in compliance;
2. Provide human resources guidance and assistance to over 500 EEC and PPC supervisors and management staff; and,
3. Provide human resources guidance and administration to 3,000 EEC, PPC, and Labor Cabinet employees.

The Division is comprised of the Director's Office and three branches; the Personnel Branch, the Payroll Branch and the Training and Recruitment Branch.

The Director's Office, in addition to managing the coordination of the following three branches, reviews and approves the recommendations from those branches, participates in resolving Cabinet disciplinary issues, provides human resources advice to executive management, performs special projects for the Office of the Secretary and the Executive Director of GAPS, provides leadership to improve the human resources process and climate in the Cabinet, acts as a liaison with the Personnel Cabinet, supervises and directs reports and other duties.

The Personnel Branch provides human resources advice to employees and managers, reviews all requests for personnel and position actions for legal and policy compliance, reviews and processes all requests to fill positions, monitors compliance with the employee evaluation system, interfaces with the Personnel Cabinet to ensure timely processing of personnel/position actions and advises Director and executive management of human resources issues in assigned agencies.

The Payroll Branch provides payroll and benefits administration services to employees and supervisors, assures semi-monthly paychecks are accurate, handles employee deductions and taxes, keeps official leave balances, reconciles payroll issues, facilitates special checks through the Personnel Cabinet and Treasury, provides administration of state life and health insurance programs and administers Family Medical Leave (FMLA) and sick leave sharing programs.

The Training and Recruitment Branch provides advice to employees and managers relating to requests for outside training and educational assistance, determines Cabinet training needs, develops and conducts in-house training, conducts new employee orientation, provides training relating to EEO issues and Title VII compliance, provides training and disseminates information regarding Cabinet policies and procedures and assists in recruiting to improve diversity in the Cabinet's workforce and to fill highly technical positions.

The Division of Human Resources is conducting intensive compliance training on federal employment law; including diversity; equal employment opportunity; equal pay; anti-discrimination; anti-harassment and workplace violence for all three cabinets. Managers are also receiving training on public employment law, specifically KRS 18A, 101 KAR, and Ethics Policies.

GAPS/DIVISION OF BUDGETS: The Division of Budgets has the responsibility of providing executive direction and leadership for budgeting and financial resources within the three cabinets. The Division has the responsibility of developing, implementing and maintaining the Cabinet budget and financial policy. The budget analysts advise commissioners, executive officers, division directors and agency staff regarding budget development, understanding policy, implementation, maintenance, modification and historical data. Each analyst is assigned specific departments/agencies with the three cabinets. The Division Director plans finances and advises the cabinet secretaries and other executive staff on budget development, policy, implementation, maintenance, modification, historical data and directs and manages the Division of Budgets.

The Division of Budgets serves as liaison to the Office of the State Budget director (OSBD) and the Legislative Research Commission (LRC). The Division is responsible for preparation and update of the Cabinet Biennial Budget, operating budgets, Six-Year Capital Budget Plan and capital projects. Most agencies assign employees as contacts to provide the Division of Budgets with input concerning their budgetary needs, but all final budget development and oversight is done in the Division at Cabinet level.

GAPS/DIVISION OF INFORMATION SERVICES: The Energy and Environment Cabinet and the Public Protection Cabinet are supported by the Division of Information Services. The Labor Cabinet is supported by its own Information Technology Branch and receives no services from the Division. The Division's primary goal is to provide information technology support and facilitate the permitting, inspection, enforcement and other core business activities of the two cabinets served. The Division establishes information technology policies based on administrative priorities, the requirements under state and federal laws and regulations, legislative initiatives and the concerns of private citizens.

The Division of Information Services support includes over 2,275 desktop and laptop computers and over 200 servers. This equipment and the necessary operating system and office system software is monitored, maintained and updated by a staff of 13 technical, three (3) administrative and two (2) contract employees. To meet the Division's mission, the structure includes the Operations and Network Branch, the Application Analysis and Development Branch and the Geographic Information Branch.

Since this division does not support the Labor Cabinet, accomplishments of this Division will be further highlighted in the Annual Reports of the Environment and Energy Cabinet and the Public Protection Cabinet.

Currently, there are 61 full-time personnel assigned to GAPS. The 2010 budget is \$4,876,900. Additional funding will be requested in the 2011-2012 biennial growth budget to fund one additional full time position and one additional part-time position, along with related operating costs. The funds for this expansion will be sought from the General Fund.

PROGRAM AREA: OFFICE OF INSPECTOR GENERAL

DESCRIPTION: The Office of Inspector General (OIG) is responsible for conducting various types of investigations within the Labor Cabinet, Public Protection and Regulation Cabinet and the Environment and Energy Cabinet. Investigations may include investigations leading to criminal prosecution for alleged violations of environmental laws and administrative regulations. The Office is headed by an executive director (attorney) and ten investigator/support staff.

FUNDING SOURCE: Funding for this office is derived 61 percent from General Fund dollars and 39 percent from restricted agency receipts collected from assessments levied against workers' compensation insurance premiums (or simulated premiums) per KRS 342.122.

APPLICABLE STATUTES: KRS 224.10-025(3) and (4); KRS 18A; KAR 101; Executive Order 2008-472; and Executive Order 2009-537.

PROGRAM STATUS: The OIG inspections and audit findings reveal areas that are inconsistent, regarding policies and standards, or lack of good management controls. These areas are presented to management in an effort to implement necessary changes. Repetitive, obsolete, or unnecessary practices are identified and corrective measures recommended. The inspections and audits also identify programs or processes that are superlatives that could benefit other cabinets or agencies. These programs, or "best practices", are shared with other agencies, thereby increasing efficiency and reducing the cost of doing the Commonwealth's business.

Over the past four (4) years, the OIG internal inspections and audits have identified cost savings totaling several hundred thousand dollars. Requests for Assistance (RFAs) are sought by agencies needing verification of the soundness of their business systems and practices with regard to processing checks and cash receipts. OIG's auditors have made recommendations for system changes which require each check or cash payment to be handled in an audit approved format, resulting in more secure methods of processing payments and receipts. The improved receipts handling systems also expedite the processes by which funds are deposited into the state's accounts.

From 2005 through 2007, the OIG conducted on-site inspections of four (4) departments and over 40 separate Cabinet agencies. The inspections were largely procedural in nature and focused on the following: 1) reviewing and analyzing department/agency programs, processes, and procedures for compliance, efficiency, and effectiveness; 2) identifying and standardizing best practices across the Cabinet; and 3) providing formal feedback to management on inspection findings, including recommendations and corrective actions, if required.

The OIG procedural inspection objectives are as summarized herein:

- Determine if department/agency has policies, guidelines, and procedures in place to measure the programs' reliability, validity, and relevance, and to determine if the programs are achieving optimum results;
- Determine if the department/agency procurement policies, guidelines, and operating procedures are effective and implemented agency-wide;
- Determine if resources are acquired and accounted for in a timely manner and at prices and quantities necessary in order to meet the organization's goals;
- Determine if department/agency has proper internal controls to account for revenues and expenditures and that revenues are properly collected, recorded, and processed;
- Determine if department/agency employees are adequately trained for the positions for which they are assigned;
- Determine if internal controls are effective in protecting assets from fraud, waste, and abuse.

Monetary savings are not the only result of OIG's investigations. Other outcomes include: 1) actual recovery of stolen funds, state property, and/or fines levied; 2) penalizing and sometimes dismissing those state employees who violate the rules; 3) increased morale among those employees who are following the rules; 4) trained staff doing the investigations while the Cabinet continues to do its work; and, 5) deterrence.

The OIG criminal investigations have resulted in felony convictions for extortion, fraud, theft, illegal dumping and other violations of environmental regulations and statutes. OIG's coordinated efforts with external agencies, such as the Federal Bureau of Investigation (FBI), Environmental Protection Agency Criminal Investigation Division (EPA), county attorneys, Commonwealth attorneys, U.S. attorneys, Kentucky Attorney General and Kentucky State Police, have helped foster a close relationship with law enforcement and prosecutorial agencies, resulting in revenues coming back into Kentucky in the form of fines and plea agreements.

The OIG is requesting a personnel cap increase and additional funding in the 2011-2012 growth budget for one additional staff position.

Table 1.

Illustrates the number of investigations by agency

Investigations	FY 2007-2008	FY 2008-2009
Energy and Environment Cabinet	96	41
Labor Cabinet	4	4
Public Protection Cabinet	8	28
Other	24	43

Table 2.

Illustrates the number of internal inspections and audits

Internal Inspections and Audits	FY 2007-2008	FY 2008-2009
Energy and Environment Cabinet	0	6
Labor Cabinet	0	3
Public Protection Cabinet	0	4
Other	0	6

RECEIPTS*** KOSH Review Commission (Department 113)****Insurance Administration Funds**

Transfers From Workers' Comp Funding Commission	519,921.41
Insurance Reimbursements	
Fines & Penalties	
Prior Year Refunds	
General Sales	
Transferred Fund to GAPS	

KOSH Review Commission (Department 113) Totals **519,921.41**

General Administration & Program Support (Department 115)

General Funds **2,471,400.00**

Federal Funds **48,120.93**

Agency Funds **2,224,878.51**

General Funds Transferred into GAPS	28,959.46
Federal Funds Transferred into GAPS	1,481.27
Agency Funds Transferred into GAPS	632,188.26
Insurance Administration Funds Transferred into GAPS	1,561,900.00
Prior Year Refunds	304.62
General Sales	<u>44.90</u>

General Administration & Program Support (Department 115) Total **4,744,399.44**

Office of the Inspector General (Department 116)

General Funds **434,400.00**

Federal Funds

Agency Funds **291,852.78**

General Funds Transferred into GAPS	
Federal Funds Transferred into GAPS	
Agency Funds Transferred into GAPS	58,102.69
Insurance Administration Funds Transferred into GAPS	227,800.00
Property Damage	5,893.88
General Sales	<u>56.21</u>

Office of the Inspector General (Department 116) Total **726,252.78**

EXPENDITURES**KOSH Review Commission**

Personnel	419,929.72	
Operating Awards	42,438.49	
Capital Outlay		
	Total Expenditures	462,368.21

General Administration and Program Support

Personnel	4,173,693.14	
Operating Awards	379,384.88	
Capital Outlay		
	Total Expenditures	4,553,078.02

Office of Inspector General

Personnel	647,278.01	
Operating Awards	62,557.85	
Capital Outlay		
	Total Expenditures	709,835.86

* Kentucky Occupational Safety and Health Review Commission (KOSH) is affixed to the Labor Cabinet for administrative purposes only. Budget data is included herein for information purposes.